

# 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](http://www.pendercountync.gov)

## AGENDA

**Pender County Board of Adjustment Meeting  
July 16, 2014 9:00 a.m.  
Pender County Public Meeting Room  
805 S. Walker Street, Burgaw, North Carolina**

**Call to Order:** Chairman

**Invocation:**

**Roll Call:** Chairman

Pender County Board of Adjustment Members:

Ferrante: \_\_\_\_\_ Pullen: \_\_\_\_\_ Newton: \_\_\_\_\_ Thompson: \_\_\_\_\_ Walton: \_\_\_\_\_

Alternates:

Godridge: \_\_\_\_\_ Peters: \_\_\_\_\_

**1. Adoption of the Agenda:**

**2. Adoption of the Minutes:** May 7, 2014

**3. Public Comment:**

*\*Public Hearing Opened\**

**4. Variance:**

Loretta Pierce applicant and owner, is requesting a variance to allow the subdivision of a previously recorded lot pursuant to § 6.6.1 A – B of the Pender County Unified Development Ordinance; specifically all Family Divisions must meet the required limitations as outlined in Section 6.6.1. The subject property, Tract 2, is zoned RA, Rural Agricultural District and is located at 6079 Bell Williams Road (SR1121) in Currie, NC. There is one (1) tract associated with this request totaling ± 5.004 acres and may be identified by Pender County PIN 2276-17-6035-0000.

*\* Public Hearing Closed\**

**5. Discussion Items:**

a. Planning Staff:

i. Access easement standards for limited subdivisions:

b. BOA Members:

**6. Next Meeting:** August 20, 2014, as applicable

**7. Adjournment:**

**PLANNING STAFF REPORT**  
**Variance Request**

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**SUMMARY:**

**Hearing Date:** July 16, 2014

**Applicant:** Loretta Pierce

**Property Owner:** Same

**Case Number:** 11201 Pierce

**Property Location and Description:** The subject property, Tract 2, Map Book 46, Page 102, (Exhibit 1) is located at 6079 Bell Williams Road (SR1121) in Currie, NC. There is one (1) tract associated with this request totaling ± 5.004 acres and the property may be identified by Pender County PIN 2276-17-6035-0000.

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

**Variance Requested:** Loretta Pierce, applicant and owner, is requesting a Variance to allow the subdivision of a previously recorded lot pursuant to Section 6.6.1 A – B of the Pender County Unified Development Ordinance.

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**BACKGROUND AND DESCRIPTION OF VARIANCE:**

On January 23, 2008 a Three Lot Division on a NCDOT Road was recorded in the Pender County Register of Deeds (Map Book 46, Page 102) for L. Thomas Garner, Jr. and Catherine S. Garner; creating the subject property, Tract #2 (Exhibit #1). The map was subsequently revised for the expansion of the off-site nitrification field, Map Book 47, Page 028 (Exhibit #2).

Fred Jones of F.W. Jones Surveying submitted a Family Division to Pender County Planning and Community Development on April 28, 2014 via email. The initial submittal was for the further subdivision of Tract A creating a 1.407 acre tract as well as a 45 foot access easement (Exhibit #3). Staff determined that due to the creation of Tract 2 in Map Book 46, Page 102 on January 23, 2008, the applicant is not eligible to use the Family Division as described in the Pender County Unified Development Ordinance, Section 6.6 Family Division. The UDO specifies that all Family Division meet the required limitations as outlined in Section 6.6.1.

6.6 Family Divisions

**6.6.1 Limitations**

- A. Family subdivisions are permitted on parcels that have been created and recorded in the Registry before March 29, 2004.
- B. A total of three parcels (excluding the remnant parcel, if the remnant parcel meets the requirements of this Ordinance) per qualified resident household will be allowed to be created under the family subdivision provisions.
- C. The division does not create a new public or private street.

Staff contacted Mr. Jones on April 29, 2014 (Exhibit #4) to review the other options of subdivision that the subject property qualified for.

A complete Minor Subdivision Application was submitted on May 15, 2014. The minor division was reviewed by staff; however the submittal did not meet the requirements of 6.4 and 6.5 of the Pender County UDO (Exhibit 5). Specifically the proposed access easement did not meet the requirements outlined in Section 7.5 Street Design, specifically 7.5.3.A "All designated private streets shall be designed and constructed in compliance with the current NCDOT Subdivision Roads Minimum Construction Standards."

Four staff members met with Mr. Jones and/or the Pierces' on six (6) different occasions to discuss options of subdivisions to facility the property owners' desire to subdivide the property; as well as the different variance options.

In summary, due to the creation of Tract 2 on January 23, 2008 the applicant is not eligible to use the Family Division described in the Pender County Unified Development Ordinance, Section 6.6 Family Divisions. The UDO specifies that all Family Division must meet the required limitations as outlined in Section 6.6.1. Tract 2 was created on January 23, 2008, therefore created after the March 29, 2004 date. The applicant is applying for a variance to offer relief from the prescribed date (Exhibit 6).

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**ZONING ADMINISTRATOR'S CONCLUSION:**

Loretta Pierce applicant and owner, is requesting a Variance to allow the subdivision of a previously recorded lot pursuant to Section 6.6.1 A – B of the Pender County Unified Development Ordinance.

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**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.
  - 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.

#### 4.7 Residential Zoning District

##### 4.7.1 RA: Rural Agricultural

The Rural Agricultural District is intended to accommodate non-residential agricultural uses and very low density residential development (minimum of 1 du/ac), as well as limited non-residential uses, in rural areas adjacent to agricultural operations. Development in this District should rely predominantly on individual wells and septic tank systems for domestic water supply and sewage disposal.

#### 4.14 Zoning District Dimensional Requirements

Dimensional Requirements Table

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

#### 5.3.2 Residential Uses

##### A. Residential Principal Structure

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

#### 6.6 FAMILY DIVISION

##### 6.6.1 Limitations

- B. Family subdivisions are permitted on parcels that have been created and recorded in the Registry before March 29, 2004.
- C. A total of three parcels (excluding the remnant parcel, if the remnant parcel meets the requirements of this Ordinance) per qualified resident household will be allowed to be created under the family subdivision provisions.
- D. The division does not create a new public or private street.

##### 6.6.2 Requirements

- A. The plat shall be clearly designated "Family Subdivision" in bold letters,

- B. Grantor and Grantee statement, located in Appendix D, shall appear on the plat and be signed by the Grantor(s) and Grantee(s) prior to approval.
- C. Certification by the Licensed Professional preparing the plat that each lot is adjacent to a natural drainage way or perennial stream or a 20 ft. drainage easement is recorded from each lot toward a natural drainage way or a perennial stream or if the lot or lots front on a NCDOT maintained road, approval from NCDOT for such lots to drain to the public road,
- D. The plat shows any designated Special Flood Hazard Areas located within the subdivision,
- E. The plat shows any designated Areas of Environmental Concern located within the subdivision
- F. An Improvement Authorization Permit from Environmental Health for each lot to be created, a soil suitability analysis for each lot to be created or approval to connect to existing public sewer
- G. The lots, other than those restricted for building development, shown on the plat meet the requirements of this Ordinance.
- H. The lots created have access to an access easement as defined in this Ordinance.
- I. The access easement must provide access to a public street.
- J. Waste water disposal requirements – One of the following must be met:
  - A. An Improvement Authorization Permit has been issued for each of the parcels,
  - B. The soil suitability analysis shows that at least 5,000 sq. ft. of each lot is suitable for traditional on site waste disposal and the required 5000 sq. ft. is not within 10 ft of any lot boundary,
  - C. Approval has been granted to connect to public sewer or community sewer or
  - D. Lots not meeting the requirements of 1, 2, or 3 are indicated by the following note: “THIS PARCEL CANNOT BE USED FOR BUILDING DEVELOPMENT, UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRIATE STATE AGENCY OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE.”
    - a) For alternative, see Design Requirements, Lots Section of this Ordinance for “Special Purpose Lots”
- K. The lots created have either direct access to a public street, private street or private access easement as defined in this Ordinance.
- L. A minimum passable travel way 20 feet wide shall be provided within a forty five (45’) foot easement at time of zoning approval.
- M. Clearing and grubbing shall be completed five feet of each edge of the travel way;
- N. Maintenance. Upon determination by the Administrator that such travel way as approved are not passable, the Administrator may, in addition to other remedies, prevent issuance of any further development approvals until such travel ways are in a proper state of maintenance as determined by the Administrator.
- O. The Administrator shall review the subdivision to insure that the development will not block future access to properties that are adjacent to the lots.
- P. The plat contains the following note: “All new access easements shown or designated on this plat, include the transfer of an easement to public entities and public utilities for the purpose of installation and maintenance of water, sewer, electric and communication lines.”
- Q. The plat must contain the following note: “All new access easements shown or designated on this plat include the transfer of an easement to Pender County, its employees and agents for access for emergency personnel (police, fire & rescue) and Pender County and its employees for administration of all Pender County Ordinances.”

## **7.5 STREET DESIGN**

### **7.5.1 Public and Private Street Design**

- A. Layout of streets as to arrangement, width, grade, character, and location shall conform to the following:
  - A. Coastal Pender Collector Street Plan, Pender County Transportation Plan or other approved State of Federal Transportation Improvement Plan.
  - B. adjoining street systems,
  - C. existing, planned and proposed streets, topographic, drainage and other natural features of the property,
  - D. to provide for continuity in existing streets and proposed streets,
  - E. provide adequate right-of-way for collector streets,
  - F. reasonable access will be provided to adjacent properties for development.
- B. Spite strips along development boundaries preventing access to streets from adjacent properties are prohibited.
- C. Street Alignment – local residential street intersections should be directly aligned if possible.
- D. When such intersections cannot be aligned, they shall be offset centerline to centerline by not less than 125 ft. Intersections of Collector streets as defined herein or shown on the Coastal Pender Collector Street Plan, Pender County Transportation Plan or other approved State Transportation Improvement Plan.
- E. Streets should intersect as nearly as possible at right angles.
- F. Permanent dead end streets (cul-de-sacs) or temporary dead end (stub) streets shall be no longer than 1,000 ft. unless it is demonstrated by the developer that the configuration of the property prevents its development without longer streets to provide access to the lots and common area to be subdivided. Temporary dead end or stub streets shall provide turn around capabilities to meet NCDOT requirements. The Cul-de-sac end shall be a bulb type with minimum radii as follows: Curb & Gutter Section: RW = 45', Pavement = 37' to gutter edge, Shoulder Section: RW = 50', Pavement = 35'.
- G. Applicants for subdivision approval shall obtain approval for street names from the Pender County Addressing Coordinator. A copy of the approved preliminary plat with approved street names must be submitted to the Administrator within 30 days of approval of the preliminary plat and prior to final plat submission.
- H. Sight triangles as required in the NCDOT Secondary Roads Standards shall be provided at all street intersections.

### 7.5.2 Public Streets

All designated public streets shall be designed and constructed in compliance with the current NCDOT Subdivision Roads Minimum Construction Standards.

### 7.5.3 Private Streets

- I. All designated private streets shall be designed and constructed in compliance with the current NCDOT Subdivision Roads Minimum Construction Standards. However, variations to right-of-way widths and geometric design may be permitted upon Planning Board review and approval where certain features such as topography, environmental features, low impact development design or unique needs of a development exist at the Master Development Plan approval.
- J. Developments with private streets shall make provisions for immediate access for Pender County Emergency Service (Law Enforcement, Fire & Rescue) vehicles and employees to the development and shall provide for an easement for such services and an easement shall be provided to Pender County and its employees for administration of Pender County Ordinances.
- K. Subdivisions with private streets will be subject to requirements to construct public collector streets under any of the following conditions:
  - A. When the subdivision contains streets that have any dimension of more than 5280 ft.,
  - B. When any street in the subdivision has the potential to serve more than 200 residential or commercial units,

- C. When access to any lot or unit in the subdivision is more than 5280 ft. by a private street to a public street,
- D. When existing public streets have been dedicated or constructed to the property line of the subdivision,
- E. When access to adjacent properties will be hindered as a result of private streets being allowed in the subdivision.
- L. All subdivisions that have any private streets must meet the minimum qualifying requirements contained in the Required Improvements section of this Ordinance.
- M. All subdivisions proposing new construction of streets must provide a Certificate of Disclosure: Private Roads found in Appendix D

### **Appendix A**

**ACCESS:** A way or means of vehicular or pedestrian approach to provide physical entrance to a property.

**ACCESS EASEMENT:** An easement that is at least forty five (45') feet wide and is recorded by map or other instrument in the Registry that specifically transfers rights to the adjacent property owners or specific property owners and their assigns, invitees, licensors and permittees for ingress, egress and utilities and for the construction and maintenance of ingress, egress and utility facilities. An access easement by designation on a recorded plat also transfers the right to construct and maintain water, sewer, electric and communication lines within the easement by any public entity or public utility.

**ALL WEATHERED ROAD:** An unpaved road that is constructed of a material that does not create mud, or sedimentation runoff during rainfall, which allows emergency and typical passenger vehicles to pass at all times.

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

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

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

**PARCEL:** A lot or tract of land.

**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.

**Board of Adjustment: Finding of Facts**

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **(results/does not result)** from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT:
2. It is the Board's CONCLUSION that, the hardship **(results/does not result)** from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that the hardship **(results/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 **(consistent/ 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 all of the FINDINGS OF FACT:

**Board Action:**

Motion: \_\_\_\_\_ Seconded: \_\_\_\_\_

Approved: \_\_\_\_\_ Denied: \_\_\_\_\_ Unanimous: \_\_\_\_\_

Ferrante: \_\_\_\_\_ Pullen: \_\_\_\_\_ Newton: \_\_\_\_\_ Thompson: \_\_\_\_\_ Walton: \_\_\_\_\_

**Alternates:**

Godridge: \_\_\_\_\_ Peters: \_\_\_\_\_

## APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA Case # 11201	Date	5.30.2014
Application Fee	\$ 250.00	Receipt No.	141333
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	Loretta Pierce	Owner's Name:	Loretta & Alton Pierce
Applicant's Address:	PO Box 345	Owner's Address:	PO Box 345
City, State, & Zip	Leland NC 28451	City, State, & Zip	Leland NC 28451
Phone Number:	910-612-4128	Phone Number:	910-612-4128
Legal relationship of applicant to land owner: <u>Owners</u>			
<b>SECTION 2: PROJECT INFORMATION</b>			
Property Identification Number (PIN):	2276-17-6035	Total property acreage:	5.0 → 5.0 ACRES
Zoning Classification:	RA	Variance Size:	See Request
Variance Location & Address	6079 Bell Williams Road, CURRIE		
Describe Variance and amount or type requested:	See attached variance request supplied by the applicant		
<b>SECTION 3: SIGNATURES</b>			
Applicant's Signature	Loretta Pierce	Date:	5-30-14
Owner's Signature	Loretta Pierce	Date:	5-30-14
<b>NOTICE TO APPLICANT:</b>			
<ol style="list-style-type: none"> <li>1. The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements.</li> <li>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.</li> <li>3. An application for a variance shall be submitted in accordance with application requirements.</li> <li>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.</li> <li>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.</li> <li>6. Applicant must also submit the information described in the Variance Checklist provided below.</li> <li>7. Applicant or agent authorized in writing must attend the public hearing.</li> <li>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.</li> </ol>			
<b>OFFICE USE ONLY</b>			
<input checked="" type="checkbox"/> VA Fees \$250		Total Fee Calculation \$ 250.00	
Payment Method :	Cash : <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input checked="" type="checkbox"/> Visa	Check: <input checked="" type="checkbox"/> Check # 1399
Application received by:	Ashley Frank	Date:	5.30.2014
Application completeness approved by:	Ashley Frank	Date:	5.30.2014
Date scheduled for public hearing:	July 16, 2014 - BOA		

### Variance Checklist

<input 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 <b>first class</b> 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"> <li><input type="checkbox"/> Property Location</li> <li><input type="checkbox"/> Building Separation Distances</li> <li><input type="checkbox"/> Dimensions of Property</li> <li><input type="checkbox"/> Proposed Building Height</li> <li><input type="checkbox"/> Building Distances From Property Lines (Front, Sides, Rear)</li> <li><input type="checkbox"/> Location of All Existing Utilities On-Site</li> <li><input type="checkbox"/> Existing Structures</li> <li><input type="checkbox"/> Acreage of Property</li> <li><input type="checkbox"/> Any Proposed Structures</li> <li><input type="checkbox"/> Additional Information Pertinent to the Variance Request (Pictures, Other Permits, etc.)</li> </ul>
<p><b>RETURN COMPLETED APPLICATION TO:</b>  Pender County  Planning &amp; Community Development  P.O. Box 1519  Burgaw, NC 28425</p>	

## VARIANCE REQUEST

OWNER: Alton Pierce

OWNER ADDRESS: PO Box 345  
Leland, NC 28451

PROPERTY TAX PIN: #2276-17-6035-0000

PROPERTY ADDRESS: On Bell Williams Road

PROPERTY DESCRIPTION: Tract 2 Garner Survey – Map Book 46 at Page 102

AREA: 5.0 Acres

## VARIANCE REQUESTED

Alton Pierce Applicant & Owner, is requesting to allow the subdivision of a previously recorded pursuant to 6.8.1 A&B of the Pender County Unified Development Ordinance (UDO).

## DESCRIPTION OF VARIANCE

Applicant (Alton Pierce) wishes to create 1 parcel & a remnant on a 45 foot access easement.

The original survey was performed May 2004 for Mr. L. Thomas Garner.

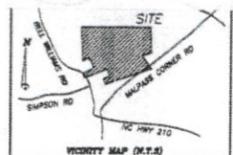
Mr. Garner created the 5 acre parcel (Tract 2) in 2007 by using the 3 Lot N.C.D.O.T. Division limitations; he then revised the plat in February 2008 to increase the off-site septic field area. Mr. Pierce purchased the tract in March 2008. Due to the creation of Tract 2 in 2007 the applicant is not eligible to use the 3 Lot Division on a Access Easement limitation as described in the current Pender County UDO (section 6.8). Neither the seller Mr. Garner nor the buyer Mr. Pierce was aware of the 2004 ruling. The applicant acquired a special use permit not knowing or being advised of the 2004 ruling for storage of equipment and to construct a 45' wide gravel road with drainage to access the property. The applicant wishes to create tract 2 as shown for the purpose of meeting & acquiring a construction loan to build a dwelling, the applicant's financial institution requires 2 acre or less lot size. This requested variance is in the spirit, purpose, and intent of the ordinance and the safety and welfare of the public is not at risk. This requested variance will add value & aesthetics to the subject and surrounding properties.

Tract 2 was created 2007, therefore created after the March 29, 2004 date. The applicant (Alton Pierce) is requesting a variance to offer relief from the prescribed date.



**SURVEY REFERENCE:**  
 MAP BOOK 46 AT PAGE 102  
 BENNIE FRANK WILLIAMS "ELMORE HENRY TRACT"  
 MAP BOOK 31 AT PAGE 29  
 DEED BOOK 2402 AT PAGE 329 &  
 DEED BOOK 2413 AT PAGE 118  
 PENDER COUNTY REGISTRY

- NOTES:**
1. CORNERS ARE MARKED AS NOTED ON MAP.
  2. ALL DISTANCES ARE HORIZONTAL FIELD MEASUREMENTS.
  3. AREA COMPUTED BY THE COORDINATE METHOD.
  4. THIS PROPERTY IS ZONED R1.
  5. THIS PROPERTY DOES NOT LIE WITHIN A FLOOD HAZARDOUS AREA.
  6. NO KNOWN HORIZONTAL CONTROL WITHIN 2,000'.
  7. TRACT NUMBER 1 HAS AN EXISTING SEPTIC SYSTEM. TRACT NUMBER 2 HAS ACQUIRED A SEPTIC PERMIT # 521238 DATED 10/23/07.
  8. NO KNOWN CORPORATE LIMITS, TOWNSHIP BOUNDARIES OR COUNTY LINES ON SUBDIVIDED TRACT.
  9. THERE ARE NO ADJOINING SUBDIVISIONS OF RECORD.
  10. BUILDING SETBACKS REQUIRED TO BE IN ACCORD WITH THE PENDER COUNTY ZONING ORDINANCE.
  11. NO KNOWN RAILROAD, UTILITY OR OTHER RIGHT OF WAYS.
  12. NO KNOWN AREAS OF ENVIRONMENTAL CONCERN.
  13. THIS MAP HAS BEEN REVISED TO ENLARGE OFF SITE NITRIFICATION FIELD.



**TRACT 2**  
 AREA:  
 5.102± - AC. - GROSS  
 0.098± - AC. - R/W IN SR 1121  
 5.004± - AC. - NET

**TRACT 1**  
 AREA:  
 127.463± - AC. - GROSS  
 0.122± - AC. - R/W IN SR 1120  
 127.341± - AC. - NET

- LEGEND:**
- ECM (EXISTING CONCRETE MONUMENT)
  - EP (EXISTING IRON PIPE)
  - OR ES (EXISTING HIGH STAKE)
  - SS (IRON STAKE SET)
  - ⊕ EOA (EXISTING OLD AXLE)
  - ⊕ ETKM (EXISTING PARKER-FALCON NAIL OR END (EXISTING NAIL & CAP))
  - ⊕ SNC (SET NAIL & CAP)
  - ⊕ N. C. ORD MONUMENT
  - ⊕ PL (POINT)
  - ⊕ POWER/UTILITY POLE
  - PROPERTY LINE
  - - - NON-SURVEYED LINE
  - - - EASEMENT LINE
  - - - DITCH LINE
  - - - CENTER LINE
  - - - RIGHT OF WAY
  - - - FENCE
  - - - OVERHEAD UTILITY LINE

**OFF-SITE NITRIFICATION FIELD EASEMENT FOR TRACT No. 2**  
 14,441 SQ. FT.

Course	Bearing	Distance
L1	N 74°40'27" E	948.88'
L2	S 89°47'35" E	100.00'
L3	S 00°12'25" W	50.00'
L4	N 85°47'35" W	100.00'
L5	N 00°12'25" E	39.82'
L6	S 74°40'27" W	941.40'
L7	N 30°21'40" W	10.35'

STATE OF NORTH CAROLINA PENDER COUNTY  
 Review Officer: *Nellie J. Williams*  
 DATE: *3/26/08*

**CERTIFICATION OF REGISTRATION BY REGISTER OF DEEDS**  
 PENDER COUNTY NORTH CAROLINA  
 FILED FOR REGISTRATION ON the *26* DAY OF *March* 2008  
 AT *1:50* P.M. AND DULY RECORDED IN MAP BOOK *41* AT PAGE *088*  
 SLIDE *652A*  
 WITNESS MY HAND AND OFFICIAL STAMP OR SEAL THIS *26* DAY OF *March* 2008.

Joyce M. Swicegood  
 REGISTER OF DEEDS  
 By: *Sharon B. Willoughby*  
 assistant

**Surveyor Certificate II**  
 This plat is a survey of another category, such as the recombination of existing parcels, a court-ordered survey or other exception to the definition of subdivision and is therefore not subject to regulation by a Subdivision Ordinance.  
**CERTIFICATION OF SURVEY AND ACCURACY**  
 I, Frederick W. Jones, PLS, certify that this plat was drawn under my supervision from an actual field survey made by me from information as noted herein; that the boundaries not surveyed are clearly indicated as dashed lines; that this map was prepared in accordance with G.S. 47-30 as amended; that the ratio of precision as calculated is 1:10000+ and is correct to the best of my knowledge and belief. Witness my original Signature, License Number and Seal

this *18* day of *FEBRUARY* AD, 2008.  
 Frederick W. Jones  
 Frederick W. Jones, PLS  
 NC License No. L-4503



MAP OF REVISION  
 N.C.D.O.T. DIVISION  
 FOR  
**L. THOMAS GARNER, JR.**  
 & WIFE  
**CATHERINE S. GARNER**  
 7790 MALPASS CORNER ROAD  
 CURRENT PARCEL PIN: 2276-27-7901-0000

GRADY TOWNSHIP - PENDER COUNTY - NORTH CAROLINA  
 SCALE: 1" = 150'  
 FEBRUARY, 2008  
 GRAPHIC SCALE - FEET

Certificate of Final Plat Approval  
 Final Plat Approved Under The Pender County Subdivision Ordinance

Planning Director \_\_\_\_\_ Date \_\_\_\_\_

**Parcel Identifier Certificate**  
 Parcel identifiers will be issued after plat has been recorded for all parcels shown on this plat.

*Nellie J. Williams* *3/26/08*  
 Tax Supervisor (Date)  
**2276-27-7901-0000**  
 PARCEL ID # \_\_\_\_\_  
 PARCEL ID # \_\_\_\_\_

**Certificate of Ownership, Dedication and Jurisdiction**

I hereby certify that I am the owner of the property shown and described herein and that I hereby adopt this plan of subdivision with my free consent. I certify that the land as shown herein is located within the subdivision jurisdiction of Pender County.  
*Sharon B. Willoughby* *2/23/08*  
 Date  
*L. Thomas Garner, Jr. and Catherine S. Garner* *2/23/08*  
 Date

**OWNERS:**  
 L. THOMAS GARNER, JR.  
 & WIFE  
 CATHERINE S. GARNER  
 1833 SOUTH CHURCHHILL DRIVE  
 WILMINGTON, N.C. 28403

APPROVED *2/23/08*  
 [Signature]  
 Pender County Planning Dept.

This map is subject to any easements, agreements or rights of way prior to the date of this map that were not visible at my time of inspection.  
 No complete title search was performed for this survey.

**Thompson & Jones**  
 Surveying Company  
 P.O. Box 1471  
 111 East Fremont Street  
 Burgin, NC 28425  
 Ph: (910) 259-2854  
 Fax: (910) 259-9040  
 E-mail: jonesurveying@south.net  
 FRED WILLIAMS, S.F.  
 Dwg. No. PJ & GARNER THOMAS

MB 47 Pg 028 SL 632

# Exhibit #3

**SURVEY REFERENCE:**  
 TRACT 2 - DIVISION MAP FOR THOMAS GARNER  
 MAP BOOK 47 AT PAGE 28  
 DEED BOOK 3431 AT PAGE 290  
 PENDER COUNTY REGISTRY

**NOTES:**

- CORNERS ARE MARKED AS NOTED ON MAP.
- ALL DISTANCES ARE HORIZONTAL FIELD MEASUREMENTS.
- AREA COMPUTED BY THE COORDINATE METHOD.
- THIS PROPERTY IS ZONED RA.
- THIS PROPERTY DOES NOT LIE WITHIN A FLOOD HAZARDOUS AREA.
- NO KNOWN HORIZONTAL CONTROL WITHIN 2,000'.
- BUILDING SET BACKS REQUIRED TO BE IN ACCORD WITH THE PENDER COUNTY ZONING ORDINANCE. (FRONT 30' // SIDE 15' // REAR 30')
- TRACT 2'A" HAS AN EXISTING SEPTIC SYSTEM.  
 TRACT 2'B" CANNOT BE USED FOR BUILDING DEVELOPMENT, UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRIATE STATE AGENCY OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE.

All new access easements shown or designated on this plat, include the transfer of an easement to public entities and public utilities for the purpose of installation and maintenance of water, sewer, electric and communication lines.

All access easements shown or designated on this plat include the transfer of an easement to Pender County, its employees and agents for access for emergency personnel (police, fire & rescue) and Pender County and its employees for administration of all Pender County Ordinances.

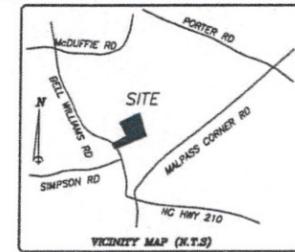
This map is subject to any easements, agreements or rights of way prior to the date of this map that were not visible at my time of inspection.

No complete title search was performed for this survey.

"This lot is adjacent to a natural drainage way or perennial stream or/and a 20 ft. drainage easement is recorded from the lot to a natural drainage way or perennial stream."

**LEGEND:**

- EIP (EXISTING IRON PIPE)
- OR EIS (EXISTING IRON STAKE)
- ISS (IRON STAKE SET)
- ▲ EPK (EXISTING PARKER-KALON NAIL)
- ▲ OR ENC (EXISTING NAIL & CAP)
- PROPERTY LINE
- - - - - NON-SURVEYED LINE
- - - - - EASEMENT LINE
- ⊕ (CENTER LINE)
- - - - - R/W (RIGHT OF WAY)
- ~ N.T.S. (NOT TO SCALE)
- + PL. (POINT)



**OFF-SITE NITRIFICATION FIELD EASEMENT FOR TRACT No. 2'A"**  
 17,205 SQ. FT.

Course	Bearing	Distance
L1	N 74°40'27" E	946.86'
L2	S 89°47'35" E	100.00'
L3	S 00°12'25" W	50.00'
L4	N 89°47'35" W	100.00'
L5	N 00°12'25" E	39.62'
L6	S 74°40'27" W	941.40'
L7	N 10°52'35" W	11.38'

**Surveyor Certificate II**

This plat is a survey that creates a subdivision of land within the subdivision area of a county or municipality that has an ordinance that regulates parcels of land.

**CERTIFICATION OF SURVEY AND ACCURACY**

I, Frederick W. Jones, PLS, certify that this plat was drawn by me from an actual field survey made by me from information as noted herein; that the boundaries not surveyed are clearly indicated as dashed lines; that this map was prepared in accordance with G.S. 47-30 as amended; that the ratio of precision as calculated is 1:10000+ and is correct to the best of my knowledge and belief. Witness my original Signature, License Number and Seal

THOMAS L. GARNER  
 TRACT 1  
 MB 46, PG 102

this \_\_\_\_\_ day of \_\_\_\_\_ AD, 2014.

Frederick W. Jones, PLS  
 NC License No. L-4503



FAMILY DIVISION  
 FOR  
**ALTON PIERCE**  
 GRADY TOWNSHIP - PENDER COUNTY - NORTH CAROLINA  
 SCALE: 1" = 60' APRIL 25, 2014



**TRACT 2'A"**  
 1.407 AC.±

**TRACT 2'B"**  
 3.691 AC.± - GROSS  
 0.098 AC.± - R/W  
 3.593 AC.± - NET

STATE OF NORTH CAROLINA

PENDER COUNTY

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

REVIEW OFFICER \_\_\_\_\_ DATE \_\_\_\_\_

**CERTIFICATION OF REGISTRATION BY REGISTER OF DEEDS**

PENDER COUNTY

NORTH CAROLINA

REGISTER OF DEEDS

**Parcel Identifier Certificate**

Parcel Identifiers will be issued for all parcels shown on this plat after recordation. TAX PIN #2276-17-6035-0000

Tax Office \_\_\_\_\_ Date \_\_\_\_\_

PARCEL ID # \_\_\_\_\_

PARCEL ID # \_\_\_\_\_

**Certificate of Collateral Kinship**

The Grantor(s) and Grantee(s) certify that the Grantee(s) is within (3) degrees of collateral kinship to the Grantor(s), and that the purpose of this waiver is not to circumvent the provisions of the Pender county Unified Development Ordinance, and that none of the lots shall be conveyed to non family members for a period of not less than five (5) years.

Grantor - Alton Pierce \_\_\_\_\_ Date \_\_\_\_\_

Grantee - Rebecca Pierce \_\_\_\_\_ Date \_\_\_\_\_

**Certificate of Ownership, Dedication and Jurisdiction**

I hereby certify that I am the owner of the property shown and described hereon and that I hereby adopt this plan of subdivision with my free consent. I certify that the land as shown hereon is located within the subdivision jurisdiction of Pender County.

Owner \_\_\_\_\_ Date \_\_\_\_\_

Owner  
 ALTON PIERCE  
 PO BOX 349  
 LELAND NC 28451

**F.W. JONES**  
 Surveying Company  
 N.C. LICENSE No. F-1036  
 P.O. Box 1471  
 111 East Fremont Street  
 Burgaw, NC 28425  
 Ph: (910) 259-2954  
 Fx: (910) 259-9040  
 Em: jonesurveying@bellsouth.net  
 File: WILLIAMS B.F.  
 Dwg. No.: PJ 6 PIERCE ALTON

## Ashley Frank

---

**From:** Megan O'Hare  
**Sent:** Friday, June 27, 2014 10:13 AM  
**To:** Ashley Frank  
**Subject:** FW: Pierce Subdivision

---

**From:** Megan O'Hare  
**Sent:** Tuesday, April 29, 2014 9:17 AM  
**To:** 'Fred Jones'  
**Subject:** Pierce Subdivision

Fred-

Unfortunately the Family Division as proposed is not applicable to this parcel as the tract was created in 2008 (text below), looks like that plat was actually submitted by your office in 2008.

### FAMILY DIVISION

#### 6.6.1 Limitations

A. Family subdivisions are permitted on parcels that have been created and recorded in the Registry before March 29, 2004.

In order to move forward with dividing the parcel, please submit this as a Minor Subdivision. A Minor Subdivision would follow the Section 3.9 of the Ordinance, this section outlines processes. Please see below for these items. A minor subdivision follows the requirements of 6.4 & 6.5.

#### Just a couple things to note:

1. Minor Subdivisions require Technical Review Committee, TRC to review the plat. This is a process we do through email- 5 days in total agencies have the opportunity to comment.
2. Minor Subdivisions cost \$100 + \$25/ lot, for this recording Planning and Zoning fees are \$150.

#### In red are items to address from the Ordinance Section 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. **Label as Minor Subdivision for Pierce**
  - 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. **Not Applicable**
  - 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. **Not Applicable**
  - 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. **Not Applicable**
  - 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. **Not Applicable**

- 14) The location, purpose, and dimensions of areas to be used for purposes other than residential; **Not Applicable**
- 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. **Not Applicable**
- 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. **Not Applicable**
- 33) The location and design of parking areas and pedestrian and vehicular access points. **Not Applicable**
- 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. **Not Applicable**
- 35) Compliance with site construction specifications. **Not Applicable**
- 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 **Not Applicable**
- 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. **Not Applicable**
- 4) Verification of receipt of the preliminary plat of the development by the Pender County Health Department. **IP for current Parcel as noted**
- 5) Verification of receipt of the preliminary plat of the development by the NCDOT District Engineer or his designee. **Not Applicable**
- 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.

Please give me a call if you have further questions and please also pass this word along to the property owners, I know they may be unclear about the process.

Thanks!

Megan O'Hare  
Planner II

Pender County Planning and Community Development  
Division of Planning  
805 S. Walker Street (Physical Address)  
PO Box 1519 (Mailing Address)  
Burgaw, NC 28425  
(910) 259-2110  
(910) 259-1295 (fax)

---

**From:** Fred Jones [<mailto:jonesurveying@bellsouth.net>]  
**Sent:** Monday, April 28, 2014 4:29 PM  
**To:** Megan O'Hare  
**Subject:**

Magan,  
Thanks for the help.  
Fred

## Ashley Frank

---

**From:** Megan O'Hare  
**Sent:** Friday, June 27, 2014 10:13 AM  
**To:** Ashley Frank  
**Subject:** FW: Pierce Subdivision  
**Attachments:** Subdivision Application.doc

---

**From:** Megan O'Hare  
**Sent:** Monday, May 05, 2014 9:43 AM  
**To:** 'Fred Jones'  
**Subject:** RE: Pierce Subdivision

Fred-

I reviewed your submittal from this weekend. Please see below for outstanding items from the Ordinance Section 6.4:

-Minor Subdivision Application (attached)  
-Minor Subdivision Fee (Minor Subdivisions cost \$100 + \$25/ lot, for this recording Planning and Zoning fees are \$150.)

- 16) The location and measurements of all proposed minimum building setback lines. (please put existing structure envelope on tract)
- 19) Estimated AM and PM Peak Hour Trips per the Institute of Transportation Engineers Trip Generation Manual.
- 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. **Please add permit number for "2A" existing septic system issued by Pender County Environmental Health**

Please give me a call if you have further questions on this Minor Subdivision. I will send to TRC once these items are completed.

Thanks!

Megan O'Hare  
Planner II

Pender County Planning and Community Development  
Division of Planning  
805 S. Walker Street (Physical Address)  
PO Box 1519 (Mailing Address)  
Burgaw, NC 28425  
(910) 259-2110  
(910) 259-1295 (fax)

---

**From:** Megan O'Hare  
**Sent:** Tuesday, April 29, 2014 9:17 AM  
**To:** 'Fred Jones'  
**Subject:** Pierce Subdivision

Fred-

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#### Just a couple things to note:

1. Minor Subdivisions require Technical Review Committee, TRC to review the plat. This is a process we do through email- 5 days in total agencies have the opportunity to comment.
2. Minor Subdivisions cost \$100 + \$25/ lot, for this recording Planning and Zoning fees are \$150.

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- 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. **Not Applicable**
- 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. **Not Applicable**
- 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. **Not Applicable**
- 12) **Street layout and access shall conform to Section 7.4, Access and Section 7.5, Street Design.**
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- 14) The location, purpose, and dimensions of areas to be used for purposes other than residential; **Not Applicable**
- 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. **Not Applicable**
- 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. **Not Applicable**
- 33) The location and design of parking areas and pedestrian and vehicular access points. **Not Applicable**
- 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. **Not Applicable**
- 35) Compliance with site construction specifications. **Not Applicable**
- 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 **Not Applicable**
- 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. **Not Applicable**
- 4) Verification of receipt of the preliminary plat of the development by the Pender County Health Department. **IP for current Parcel as noted**
- 5) Verification of receipt of the preliminary plat of the development by the NCDOT District Engineer or his designee. **Not Applicable**
- 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.

Please give me a call if you have further questions and please also pass this word along to the property owners, I know they may be unclear about the process.

Thanks!

Megan O'Hare  
Planner II

Pender County Planning and Community Development  
Division of Planning  
805 S. Walker Street (Physical Address)  
PO Box 1519 (Mailing Address)  
Burgaw, NC 28425  
(910) 259-2110  
(910) 259-1295 (fax)

---

**From:** Fred Jones [<mailto:jonesurveying@bellsouth.net>]  
**Sent:** Monday, April 28, 2014 4:29 PM  
**To:** Megan O'Hare  
**Subject:**

Magan,  
Thanks for the help.  
Fred

**SURVEY REFERENCE:**  
 TRACT 2 - DIVISION MAP FOR THOMAS GARNER  
 MAP BOOK 47 AT PAGE 28  
 DEED BOOK 3431 AT PAGE 290  
 PENDER COUNTY REGISTRY

**NOTES:**

- CORNERS ARE MARKED AS NOTED ON MAP.
- ALL DISTANCES ARE HORIZONTAL FIELD MEASUREMENTS.
- AREA COMPUTED BY THE COORDINATE METHOD.
- THIS PROPERTY IS ZONED RA.
- THIS PROPERTY DOES NOT LIE WITHIN A FLOOD HAZARDOUS AREA.
- NO KNOWN HORIZONTAL CONTROL WITHIN 2,000'.
- BUILDING SET BACKS REQUIRED TO BE IN ACCORD WITH THE PENDER COUNTY ZONING ORDINANCE. (FRONT 30' // SIDE 15' // REAR 30')
- TRACT 2'A HAS AN EXISTING SEPTIC SYSTEM.
- TRACT 2'B CANNOT BE USED FOR BUILDING DEVELOPMENT, UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRIATE STATE AGENCY OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE.

All new access easements shown or designated on this plat, include the transfer of an easement to public entities and public utilities for the purpose of installation and maintenance of water, sewer, electric and communication lines.

All access easements shown or designated on this plat include the transfer of an easement to Pender County, its employees and agents for access for emergency personnel (police, fire & rescue) and Pender County and its employees for administration of all Pender County Ordinances.

This map is subject to any easements, agreements or rights of way prior to the date of this map that were not visible at my time of inspection.

No complete title search was performed for this survey.

"This lot is adjacent to a natural drainage way or perennial stream or/and a 20 ft. drainage easement is recorded from the lot to a natural drainage way or perennial stream."

**LEGEND:**

- EIP (EXISTING IRON PIPE)
- OR EIS (EXISTING IRON STAKE)
- ISS (IRON STAKE SET)
- ▲ EPK (EXISTING PARKER-KALON NAIL)
- OR ENC (EXISTING NAIL & CAP)
- PROPERTY LINE
- - - NON-SURVEYED LINE
- - - EASEMENT LINE
- ⊂ (CENTER LINE)
- R/W (RIGHT OF WAY)
- - - N.T.S. (NOT TO SCALE)
- Pt. (POINT)



**OFF-SITE NITRIFICATION FIELD EASEMENT FOR TRACT No. 2'A**  
 17,205 SQ. FT.

Course	Bearing	Distance
L1	N 74°40'27" E	946.86'
L2	S 89°47'35" E	100.00'
L3	S 00°12'25" W	50.00'
L4	N 89°47'35" W	100.00'
L5	N 00°12'25" E	39.62'
L6	S 74°40'27" W	941.40'
L7	N 10°52'35" W	11.38'

**Surveyor Certificate II**

This plat is a survey that creates a subdivision of land within the subdivision area of a county or municipality that has an ordinance that regulates parcels of land.

**CERTIFICATION OF SURVEY AND ACCURACY**

I, Frederick W. Jones, PLS, certify that this plat was drawn by me from an actual field survey made by me from information as noted hereon; that the boundaries not surveyed are clearly indicated as dashed lines; that this map was prepared in accordance with G.S. 47-30 as amended; that the ratio of precision as calculated is 1:10000+ and is correct to the best of my knowledge and belief. Witness my original Signature, License Number and Seal

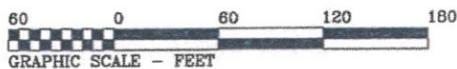
THOMAS L. GARNER  
 TRACT 1  
 MB 46, PG 102

this \_\_\_\_\_ day of \_\_\_\_\_ AD, 2014.

Frederick W. Jones, PLS  
 NC License No. L-4503



FAMILY DIVISION  
 FOR  
**ALTON PIERCE**  
 GRADY TOWNSHIP - PENDER COUNTY - NORTH CAROLINA  
 SCALE: 1" = 60' APRIL 25, 2014



**Certificate of Ownership, Dedication and Jurisdiction**

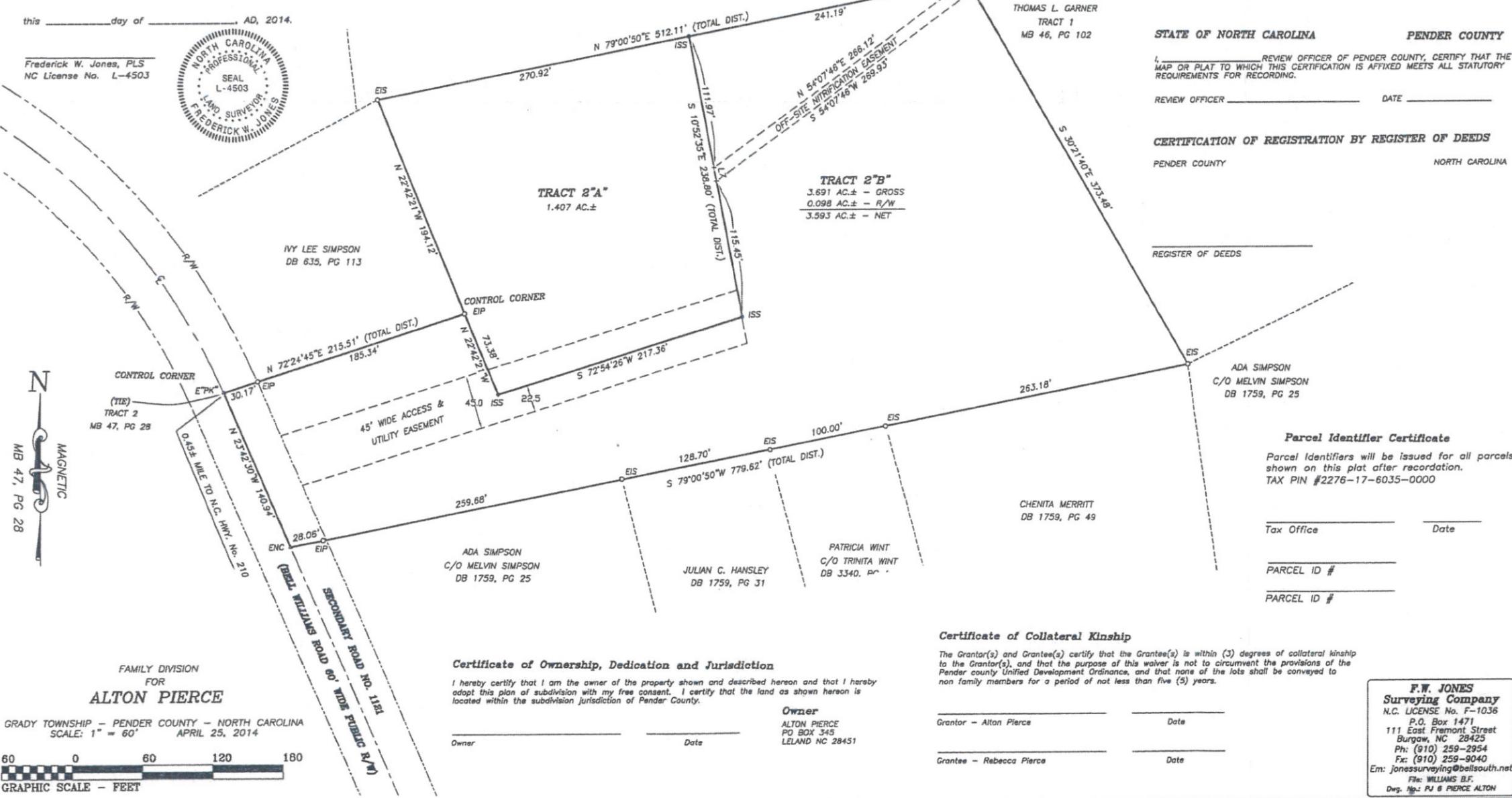
I hereby certify that I am the owner of the property shown and described hereon and that I hereby adopt this plan of subdivision with my free consent. I certify that the land as shown hereon is located within the subdivision jurisdiction of Pender County.

Owner \_\_\_\_\_ Date \_\_\_\_\_  
 ALTON PIERCE  
 PO BOX 345  
 LELAND NC 28451

**Certificate of Collateral Kinship**

The Grantor(s) and Grantee(s) certify that the Grantee(s) is within (3) degrees of collateral kinship to the Grantor(s), and that the purpose of this waiver is not to circumvent the provisions of the Pender county Unified Development Ordinance, and that none of the lots shall be conveyed to non family members for a period of not less than five (5) years.

Grantor - Alton Pierce \_\_\_\_\_ Date \_\_\_\_\_  
 Grantee - Rebecca Pierce \_\_\_\_\_ Date \_\_\_\_\_



**STATE OF NORTH CAROLINA PENDER COUNTY**

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

REVIEW OFFICER \_\_\_\_\_ DATE \_\_\_\_\_

**CERTIFICATION OF REGISTRATION BY REGISTER OF DEEDS**

PENDER COUNTY NORTH CAROLINA

REGISTER OF DEEDS

**Parcel Identifier Certificate**

Parcel Identifiers will be issued for all parcels shown on this plat after recordation.  
 TAX PIN #2276-17-6035-0000

Tax Office \_\_\_\_\_ Date \_\_\_\_\_

PARCEL ID # \_\_\_\_\_

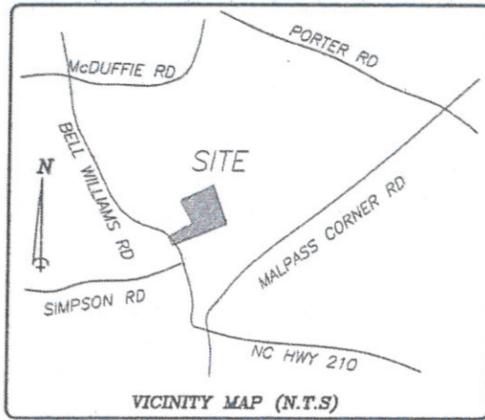
PARCEL ID # \_\_\_\_\_

**F.W. JONES**  
**Surveying Company**  
 N.C. LICENSE No. F-1036  
 P.O. Box 1471  
 111 East Fremont Street  
 Burgaw, NC 28425  
 Ph: (910) 259-2954  
 Fx: (910) 259-9040  
 Em: jonesurveying@bellsouth.net  
 Fw: WILLIAMS B.F.  
 Dwg. No.: PJ 6 PIERCE ALTON

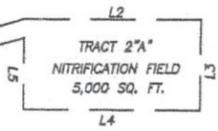
**SURVEY REFERENCE: Exhibit #6**  
 TRACT 2 - DIVISION MAP FOR THOMAS GARNER  
 MAP BOOK 47 AT PAGE 28  
 DEED BOOK 3431 AT PAGE 290  
 PENDER COUNTY REGISTRY

**OFF-SITE NITRIFICATION FIELD EASEMENT  
 FOR TRACT No. 2"A"**  
 17,205 SQ. FT.

Course	Bearing	Distance
L1	N 74°40'27" E	946.86'
L2	S 89°47'35" E	100.00'
L3	S 00°12'25" W	50.00'
L4	N 89°47'35" W	100.00'
L5	N 00°12'25" E	39.62'
L6	S 74°40'27" W	941.40'
L7	N 10°52'35" W	11.38'



THOMAS L. GARNER  
 TRACT 1  
 MB 46, PG 102



**LEGEND:**

- + Pt. (POINT)
- O EIP (EXISTING IRON PIPE)  
OR EIS (EXISTING IRON STAKE)
- ISS (IRON STAKE SET)
- △ EPK (EXISTING PARKER-KALON NAIL)  
OR ENC (EXISTING NAIL & CAP)
- PROPERTY LINE
- - - NON-SURVEYED LINE
- - - EASEMENT LINE
- - - Q (CENTER LINE)
- - - R/W (RIGHT OF WAY)
- ~ N.T.S. (NOT TO SCALE)
- - - MBL (MINIMUM BUILDING LINE)

**TRACT 2"B" REMNANT**  
 3.691 AC.± - GROSS  
 0.098 AC.± - R/W  
 3.593 AC.± - NET

**TRACT 2"A"**  
 1.407 AC.±



MB 47, PG 28

CONTROL CORNER  
 (TIE)  
 TRACT 2  
 MB 47, PG 28

IVY LEE SIMPSON  
 DB 635, PG 113

THOMAS L. GARNER  
 TRACT 1  
 MB 46, PG 102

ADA SIMPSON  
 C/O MELVIN SIMPSON  
 DB 1759, PG 25

CHEWITA MERRITT  
 DB 1759, PG 49

ADA SIMPSON  
 C/O MELVIN SIMPSON  
 DB 1759, PG 25

JULIAN C. HANSLEY  
 DB 1759, PG 31

PATRICIA WINT  
 C/O TRINITA WINT  
 DB 3340, PG 104

**F.W. JONES**  
**Surveying Company**  
 N.C. LICENSE No. F-1036  
 P.O. Box 1471  
 111 East Fremont Street  
 Burgaw, NC 28425  
 Ph: (910) 259-2954  
 Fx: (910) 259-9040  
 Em: jonesurveying@bellsouth.net  
 File: WILLIAMS B.F.  
 Dwg. No.: PJ 6 PIERCE ALTON

**NOTES:**

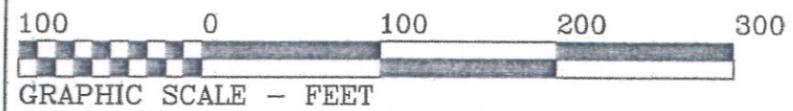
1. CORNERS ARE MARKED AS NOTED ON MAP.
2. ALL DISTANCES ARE HORIZONTAL FIELD MEASUREMENTS.
3. AREA COMPUTED BY THE COORDINATE METHOD.
4. THIS PROPERTY IS ZONED RA.
5. THIS PROPERTY DOES NOT LIE WITHIN A FLOOD HAZARDOUS AREA.
6. NO KNOWN HORIZONTAL CONTROL WITHIN 2,000'.
7. BUILDING SET BACKS REQUIRED TO BE IN ACCORD WITH THE PENDER COUNTY ZONING ORDINANCE. (FRONT 30' // SIDE 15' // REAR 30')
8. TRACT 2"A" HAS AN EXISTING SEPTIC SYSTEM, (PERMIT #072191 DATED 6/21/07). TRACT 2"B" CANNOT BE USED FOR BUILDING DEVELOPMENT, UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRIATE STATE AGENCY OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE.
9. NO KNOWN AREAS OF ENVIRONMENTAL CONCERN.



**Owner**  
 ALTON PIERCE  
 PO BOX 345  
 LELAND NC 28451

"THREE LOT SUBDIVISION ON ACCESS EASEMENT"  
 FOR  
**ALTON PIERCE**

GRADY TOWNSHIP - PENDER COUNTY - NORTH CAROLINA  
 SCALE: 1" = 100' APRIL 25, 2014



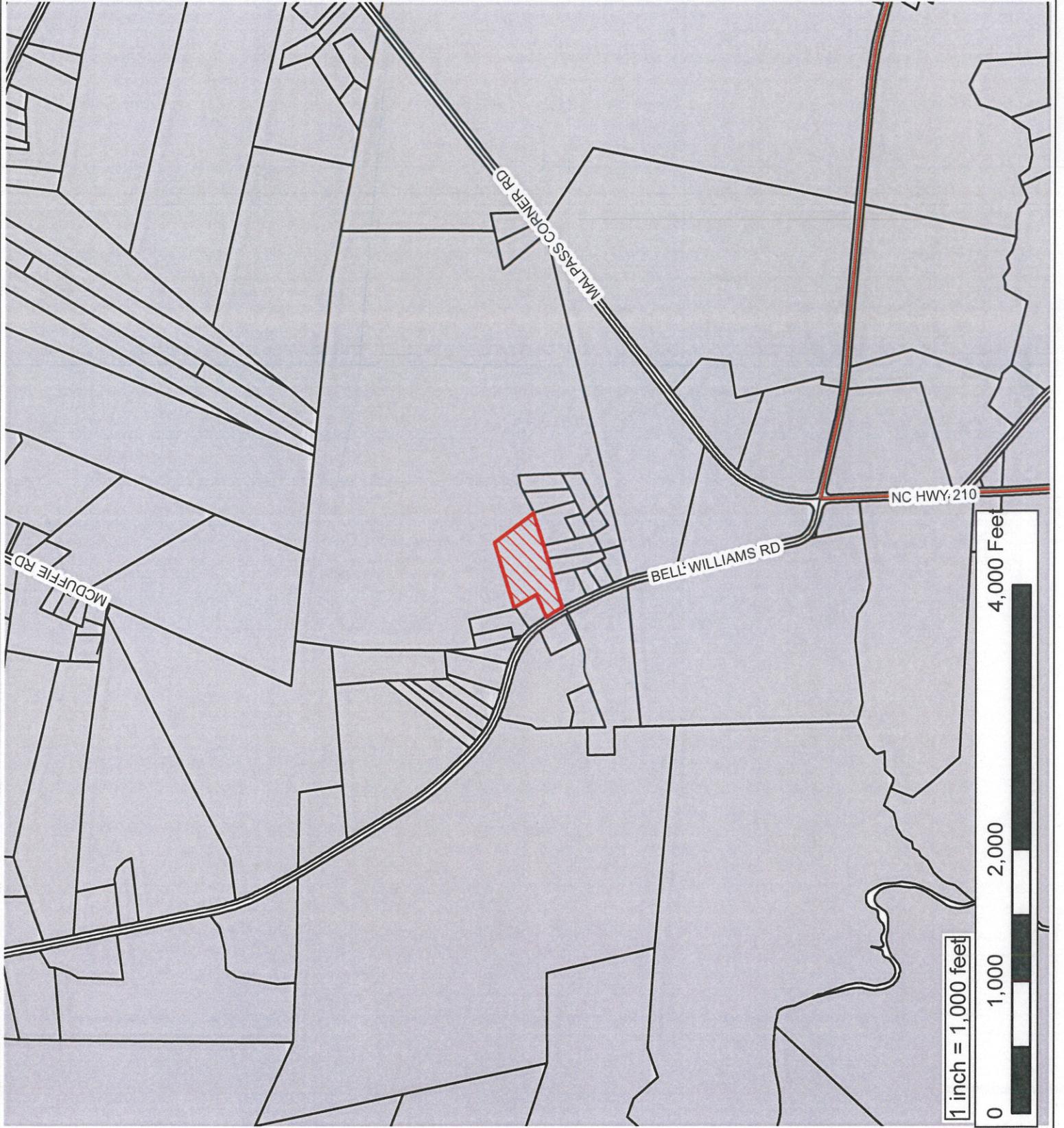


**Applicant & Owner:**  
Loretta Pierce

**Variance**  
**Case #**  
11193



**VICINITY**





**Applicant & Owner:**  
Loretta Pierce

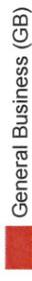
**Variance**  
**Case #**  
11193

**Legend**



Subject Property

**Zoning Classification**



General Business (GB)



General Industrial (GI)



Industrial Transition (IT)



Office & Institutional (OI)



Rural Agricultural (RA)



Planned Development (PD)



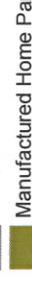
Residential Performance (RP)



Environmental Conservation (EC)



Incorporated Areas (INCORP)



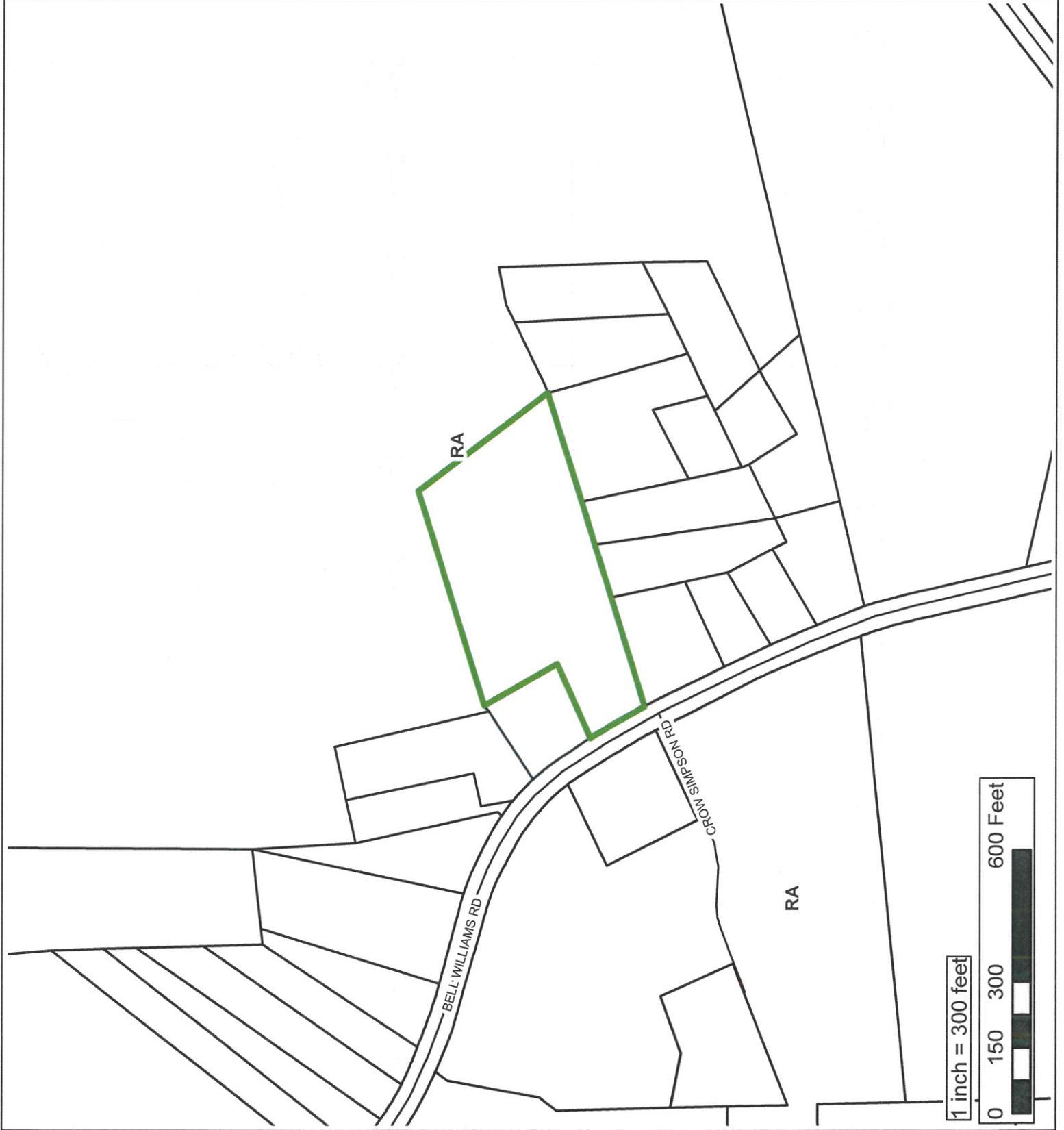
Manufactured Home Park (MH)



Residential Mixed (MF)



**ZONING**





**Applicant & Owner:**  
Loretta Pierce

**Variance**  
**Case #**  
11193

 Subject Property



**Aerial**



# 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](http://www.pendercountync.gov)

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### MEMORANDUM

To: Pender County Board of Adjustment

From: Planning Staff

Date: July 16, 2014

RE: Discussion Items

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Board of Adjustment Members,

Staff has prepared and will be presenting to you information on limited subdivisions as outlined in the Pender County Unified Development Ordinance (UDO) Sections 6.6; 6.7; and 6.8; per the Board of Adjustment request in February 2014. Specifically, the Board directed staff to provide a list of complaints received regarding limited subdivisions and other jurisdiction's requirements for similar type approvals.

Listed below is a definition of Subdivision as defined in NC General Statute §153A-335, as well as the available subdivision types as prescribed in the Pender County UDO. Staff has also included issues that have recently arisen, and questions to be considered regarding limited subdivisions.

Four (4) attachments have also been included:

**Attachment A:** Contains an excerpt from Pender County's UDO containing Sections 6.6-6.8 which addresses limited subdivision regulations in Pender County; with additional supplemental provision that are pertinent to limited subdivisions.

**Attachment B:** contains an overview of how surrounding jurisdictions (counties) within North Carolina address similar types of limited subdivision regulation.

**Attachment C:** contains a discussion on Road Maintenance agreements with an example of a draft agreement.

---

### Subdivisions:

- (a) All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:
- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.

- (2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved.
  - (3) The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.
  - (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.
- (b) A county may provide for expedited review of specified classes of subdivisions.

**Subdivision Types:**

Pender County current offers 5 types of subdivision options that are specifically addressed in Section 3.8 of the UDO:

1. Major Subdivisions- eleven (11) lots or more are classified as Major Subdivisions and are required to follow the Master Development Plan review process with TRC review and Planning Board approval. All major subdivisions shall include a preliminary and final plat.
2. Minor Subdivisions-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. Requires TRC review and meets the same requirements as a Major Subdivision.
3. 3 Lot Division on an NCDOT Road- Limited Subdivision – four (4) or less lots with each lot having frontage on an NCDOT maintained road or other public road and requires Planning Staff approval
4. 3 Lot Division on an Access Easement- Limited Subdivision– four (4) or less lots with one (1) or more lots having ingress/egress via an access easement and requires Planning Staff approval
5. Family Division- Limited Subdivision- four (4) or less lots created by a qualified resident household per this provision and requires Planning Staff approval.

**Common Issues with Limited Subdivisions:**

The following are the most common issues Staff discusses with surveyors, property owners, real estate agents, and citizens concerning the current Pender County Unified Development Ordinance requirements for limited subdivisions:

1. Desire to record an access easement rather than road improvements required for Minor Subdivision
2. Number of parcels that can be created on an existing easement
3. Length of easement
4. Width Requirement
5. Time limitation from the date in which a parcel was created

**Questions to Consider:**

How should limited subdivision be reviewed?

How many lots should limited subdivision allow?

Should Access Easements be regulated? By what factors: Zoning District, length and width, number of lots, construction and maintenance of easement

How many times should a property qualify for a limited subdivision?

## **Attachment A**

### **6.6 FAMILY DIVISION**

#### **6.6.1 Limitations**

- A. Family subdivisions are permitted on parcels that have been created and recorded in the Registry before March 29, 2004.
- B. A total of three parcels (excluding the remnant parcel, if the remnant parcel meets the requirements of this Ordinance) per qualified resident household will be allowed to be created under the family subdivision provisions.
- C. The division does not create a new public or private street.

#### **6.6.2 Requirements**

- A. The plat shall be clearly designated "Family Subdivision" in bold letters,
- B. Grantor and Grantee statement, located in Appendix D, shall appear on the plat and be signed by the Grantor(s) and Grantee(s) prior to approval.
- C. Certification by the Licensed Professional preparing the plat that each lot is adjacent to a natural drainage way or perennial stream or a 20 ft. drainage easement is recorded from each lot toward a natural drainage way or a perennial stream or if the lot or lots front on a NCDOT maintained road, approval from NCDOT for such lots to drain to the public road,
- D. The plat shows any designated Special Flood Hazard Areas located within the subdivision,
- E. The plat shows any designated Areas of Environmental Concern located within the subdivision
- F. An Improvement Authorization Permit from Environmental Health for each lot to be created, a soil suitability analysis for each lot to be created or approval to connect to existing public sewer
- G. The lots, other than those restricted for building development, shown on the plat meet the requirements of this Ordinance.
- H. The lots created have access to an access easement as defined in this Ordinance.
- I. The access easement must provide access to a public street.
- J. Waste water disposal requirements – One of the following must be met:
  - 1) An Improvement Authorization Permit has been issued for each of the parcels,
  - 2) The soil suitability analysis shows that at least 5,000 sq. ft. of each lot is suitable for traditional on site waste disposal and the required 5000 sq. ft. is not within 10 ft of any lot boundary,
  - 3) Approval has been granted to connect to public sewer or community sewer or
  - 4) Lots not meeting the requirements of 1, 2, or 3 are indicated by the following note: "THIS PARCEL CANNOT BE USED FOR BUILDING DEVELOPMENT, UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRIATE STATE AGENCY OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE."
    - a) For alternative, see Design Requirements, Lots Section of this Ordinance for "Special Purpose Lots"
- K. The lots created have either direct access to a public street, private street or private access easement as defined in this Ordinance.

- L. A minimum passable travel way 20 feet wide shall be provided within a forty five (45') foot easement at time of zoning approval.
- M. Clearing and grubbing shall be completed five feet of each edge of the travel way;
- N. Maintenance. Upon determination by the Administrator that such travel way as approved are not passable, the Administrator may, in addition to other remedies, prevent issuance of any further development approvals until such travel ways are in a proper state of maintenance as determined by the Administrator.
- O. The Administrator shall review the subdivision to insure that the development will not block future access to properties that are adjacent to the lots.
- P. The plat contains the following note: "All new access easements shown or designated on this plat, include the transfer of an easement to public entities and public utilities for the purpose of installation and maintenance of water, sewer, electric and communication lines."
- Q. The plat must contain the following note: "All new access easements shown or designated on this plat include the transfer of an easement to Pender County, its employees and agents for access for emergency personnel (police, fire & rescue) and Pender County and its employees for administration of all Pender County Ordinances."

## **6.7 THREE LOT DIVISION - NCDOT ROAD**

### **6.7.1 Limitations – The following limitations will apply to three lot subdivisions:**

- A. Three lot subdivisions located on an existing NCDOT maintained or other public road will be limited to no more than three such parcels (excluding the remnant parcel, if the remnant parcel meets the requirements of this Ordinance) being created from any parcel that had been created and recorded in the Registry before March 29, 2004.
- B. The division does not create a new public or private street.

### **6.7.2 Requirements**

The following shall be submitted to the Administrator with each proposal for a division of up to three lots fronting on an existing NCDOT maintained public road:

- A. Plat prepared as required by NCGS §47-30, The plat shall be clearly designated "Three Lot Subdivision on NCDOT Road" in bold letters,
- B. Certification by the Licensed Professional preparing the plat that each lot is adjacent to a natural drainage way or perennial stream or a 20 ft. drainage easement is recorded from each lot toward a natural drainage way or a perennial stream or if the lot or lots front on a NCDOT maintained road, approval from NCDOT for such lots to drain to the public road,
- C. The plat shows any designated Special Flood Hazard Areas located within the subdivision
- D. The plat shows any designated Areas of Environmental Concern located within the subdivision,
- E. An Improvement Authorization Permit from Environmental Health for each lot to be created, a soil suitability analysis for each lot to be created or approval to connect to existing public sewer.
- F. The lots, other than those restricted for building development, shown on the plat meet the requirements of this Ordinance,
- G. Waste water disposal requirements – One of the following must be met:
  - 1) An Improvement Authorization Permit has been issued for each of the parcels,

- 2) The soil suitability analysis shows that at least 5,000 sq. ft. of each lot is suitable for traditional on site waste disposal and the required 5,000 sq. ft. is not within 10 ft of any lot boundary,
- 3) Approval has been granted to connect to public sewer or community sewer or
- 4) Lots not meeting the requirements of 1, 2, or 3 are indicated by the following note: "THIS PARCEL CANNOT BE USED FOR BUILDING DEVELOPMENT, UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRIATE STATE AGENCY OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE."
  - a) For alternative, see Design Requirements, Lots Section of this Ordinance for "Special Purpose Lots."
- H. The lots created have access to a NCDOT maintained public street.
- I. The Administrator determines that the subdivision complies with the limitations on Three Lot Subdivisions contained in the General Provisions Section of this Ordinance.
- J. The Administrator shall review the subdivision to insure that the development will not block future access to properties that are adjacent to the lots.
- K. The plat contains an ownership and dedication statement signed by the owner or owners in the format provided by this Ordinance.
- L. The plat contains the following note: "All new access easements shown or designated on this plat, include the transfer of an easement to public entities and public utilities for the purpose of installation and maintenance of water, sewer, electric and communication lines

## **6.8 THREE LOT DIVISION – PRIVATE ROAD/ACCESS EASEMENT**

### **6.8.1 Limitations - The following limitations will apply to three lot subdivisions:**

- A. Three lot subdivisions located on an access easement will be limited to no more than three such parcels (excluding the remnant parcel, if the remnant parcel meets the requirements of this Ordinance) being created from any parcel that had been created and recorded in the Registry before March 29, 2004.
- B. Three lot subdivisions located on an access easement as defined in this Ordinance will be limited to three such parcels (excluding the remnant parcel, if the remnant parcel meets the requirements of this Ordinance) being created from any parcel that had been created and recorded in the Registry before March 29, 2004 or any parcel that has been created and approved by the Administrator under the provisions of this Ordinance.
- C. The division does not create a new public or private street.

### **6.8.2 Requirements**

The following shall be submitted to the Administrator with each proposal for a division of up to three lots fronting on an access easement that provides access to an existing NCDOT maintained public road:

- A. Plat prepared as required by NCGS §47-30,
- B. The plat shall be clearly designated "Three Lot Subdivision on Access Easement" in bold letters,
- C. Certification by the Licensed Professional preparing the plat that each lot is adjacent to a natural drainage way or perennial stream or a 20 ft. drainage easement is recorded from each

- lot to a natural drainage way or a perennial stream or if the lot or lots front on a NCDOT maintained road, approval from NCDOT for such lots to drain to the public road,
- D. The plat shows any designated Special Flood Hazard Areas located within the subdivision,
  - E. The plat shows any designated Areas of Environmental Concern located within the subdivision,
  - F. An Improvement Authorization Permit from Environmental Health for each lot to be created, a soil suitability analysis for each lot to be created or approval to connect to existing public sewer.
  - G. The lots, other than those restricted for building development or designated and reserved for open space, shown on the plat meet the requirements of this Ordinance
  - H. Waste water disposal requirements – One of the following must be met:
    - 1) An Improvement Authorization Permit has been issued for each of the parcels,
    - 2) The soil suitability analysis shows that at least 5,000 sq. ft. of each lot is suitable for traditional on site waste disposal and the required 5,000 sq ft. is not within 10 ft of any lot boundary,
    - 3) Approval has been granted to connect to public sewer or community sewer,
    - 4) or Lots not meeting the requirements of 1, 2, or 3 are indicated by the following note: “THIS PARCEL CANNOT BE USED FOR BUILDING DEVELOPMENT, UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRIATE STATE AGENCY OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE.”
      - a) For alternative, see Design Requirements, Lots Section of this Ordinance for “Special Purpose Lots.”
  - I. The lots created have access to an access easement as defined in this Ordinance,
  - J. The access easement that provides access to a public street is no longer than 500 ft.
  - K. A minimum passable travel way 20 feet wide shall be provided within a forty five (45') foot easement at time of zoning approval.
  - L. Clearing and grubbing shall be completed five feet of each edge of the travel way;
  - M. Maintenance. Upon determination by the Administrator that such travel way as approved are not passable, the Administrator may, in addition to other remedies, prevent issuance of any further development approvals until such travel ways are in a proper state of maintenance as determined by the Administrator.
  - N. The Administrator determines that the subdivision complies with the limitations on Three Lot Subdivisions contained in the General Provisions Section of this Ordinance.
  - O. The plat contains an ownership and dedication statement signed by the owner or owners.
  - P. The plat contains the following note: “All new access easements shown or designated on this plat, include the transfer of an easement to public entities and public utilities for the purpose of installation and maintenance of water, sewer, electric and communication lines.”
  - Q. The plat must contain the following note: “All new access easements shown or designated on this plat include the transfer of an easement to Pender County, its employees and agents for access for emergency personnel (police, fire & rescue) and Pender County and its employees for administration of all Pender County Ordinances.”

The following text from the Pender County Unified Development Ordinance specifically details access easements; the design, standards and notes required on plats for record.

**5.3.2.B. STRUCTURES TO HAVE ACCESS**

- 1) Every structure hereafter erected or moved shall be on a lot adjacent to or having access to a public right-of-way, street or road not less than thirty (30') feet in width. When the lot is not adjacent to the public road and access is provided by an access easement to the public road, the easement must be a minimum of twenty (20') feet wide.

**7.2.1 LOT DESIGN REQUIREMENTS**

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

**7.2.8 ACCESS**

All single family dwelling subdivision lots shall have frontage upon a public or private street or access easement. All multi-unit developments shall provide access to a public street directly from each unit or from each unit across a common area owned by the multi-unit development or owned by a Homeowners Association to which the dwelling unit owner is required to be a member.

**7.2.10 SPECIAL PURPOSE LOTS**

- A. Special purpose lots that do not meet the minimum lot area, minimum lot dimensions, minimum access requirements or other requirements of this Ordinance may be approved by the Planning Board or Administrator under the following circumstances:
  - 1) The lot has a 20 ft. access easement to a public or private road,

**APPENDIX A- DEFINITIONS**

**ACCESS EASEMENT:** An easement that is at least forty five (45') feet wide and is recorded by map or other instrument in the Registry that specifically transfers rights to the adjacent property owners or specific property owners and their assigns, invitees, licensors and permittees for ingress, egress and utilities and for the construction and maintenance of ingress, egress and utility facilities. An access easement by designation on a recorded plat also transfers the right to construct and maintain water, sewer, electric and communication lines within the easement by any public entity or public utility.

## **Attachment B**

### **Surrounding Jurisdiction Regulations**

The following are excerpts from local county ordinances:

#### **Brunswick County Unified Development Ordinance Section 6.1.2**

- A. Every lot shall have (direct or indirect) access to a public or private street. Access must provide a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.
- B. In general, the minimum required width is equal to a 20-foot-wide public access easement, although this may be reduced by the Planning Director if access sufficient to satisfy paragraph A. above is provided. Additional width access easements may also be required to accommodate driveways or roadways serving large developments.

#### **Duplin County Subdivision Regulation Section 303.2**

Subdivisions that qualify for the private easement exemption follow the procedural requirements for minor subdivisions as required in section 304 provided all the following are met.

- A. All parcels created by the subdivision about a private ingress and egress easement of at least 50' in width.
- B. The subdivision creates a maximum of three contiguous parcels.
- C. The minimum area of all new parcels shall be no less than 21,780 sq. ft. in area and have no less than twenty feet (20) of frontage along the ingress and egress easement.
- D. Adequate documentation concerning the ownership and perpetual maintenance of the private ingress and egress easement is submitted with the plat and noted on the plat.

#### **New Hanover County Zoning Ordinance Section 61.2-1 (3)**

Building lots having access over a private driveway or easement at least thirty (30) feet in width (5/1/89) to a road as defined in Section 23-86, provided the driveway or easement is an easement appurtenant to three (3) or fewer lots and the easement is solely owned by a lot owner or in common by three (3) or fewer lot owners.

#### **Onslow County Subdivision Ordinance**

Family Division (exempt division): The following is a list of requirements/statements that must be submitted with an exempt plat for a subdivision of property for family purposes:

1. A plat listing the names of the family members and identifying which lots are to be conveyed to each with a statement that "the lot(s) shown are created for the purpose of family ownership";
  2. Where lots are not adjacent in a public street, a note on the plat stating that the lot is benefited by a permanent easement for access and utilities.
  3. The following note shall appear on the plat: "No additional lots, including the resubdivision of the lots served by the access easement and utility, shall be permitted unless the access and utility easement is upgraded to meet or exceed the standards of the Onslow County Subdivision Ordinance."
  4. A note stating that the property owners are responsible for the upkeep and maintenance of the access and utility easement shall be placed on the plat; and
  5. A septic permit or letter of sewer availability shall be required for each lot to be created or a statement shall be placed on the plat that the property is being conveyed as forestland or farmland.
- Numbers 2, 3, and 4 only apply only when the lot(s) created do not have direct access to a public street. Any map of an exemption shall be presented to the Planning Department for sign-off prior to recordation. If the Planning Department determines that the intent to make use of any of these

exemptions is to circumvent the provisions of the Subdivision Ordinance, then the use of this exemption may be denied. The applicant may then appeal to the Planning Board for decision.

**Minor Subdivision** – A minor subdivision is a division of 10 or fewer lots, including the residual parcel where each lot will have street frontage along an existing public or private street, where no new street improvements and/or right of-way dedication is required, and where no water and/or sewer utility extensions are required. The minor subdivision may not be used by an owner, developers, subsequent purchaser, or successor-in-interest a second time within three years on any property less than 1,500 feet from the original property boundaries or the boundaries of an approved minor subdivision created within the original property.

**Rural Subdivision** – A subdivision where ten (10) or fewer lots result with each lot at least one (1) acre in size. The Rural Subdivision may be used only once for any parent parcel or unit of ownership as of the effective date of this ordinance.

#### **Access Requirements**

All newly created lots and parcels shall have access to a public street via a proposed public street, a paved private street evidenced by a recorded easement or right-of-way for access or, in the case of a rural subdivision, a private lane evidenced by a recorded easement for access and utilities. However, direct access (driveways) to some roads may be prohibited. (See section 603.3.C) Multi-family, cottage developments and commercial developments may be served by private parking access areas provided that the design meets the requirements of the Onslow County Zoning Ordinance and that the upkeep and maintenance of these areas are included in the property owner documentation to be recorded at the time of the final plat approval. When property is proposed to be subdivided as a rural subdivision which has access along an existing private easement, no more than 10 residential units may be served by the easement. The applicant must provide the names and addresses (and stamped envelopes) of the other property owners whose property is served by the existing easement so that the Planning Department may notify them of the proposed development

**Attachment C**

**Road Maintenance Agreements**

There is a potential to require a road maintenance agreement between property owners recorded through Register of Deeds who wish to further subdivide property without roadway improvement to NCDOT standards at the time of subdivision as required in § 3.9.3.B & § 6.4.C. This would allow private owners to maintain the roadways on access easements to ensure a safe, passable ingress and egress. If a road maintenance agreement is deemed appropriate, a Zoning Text Amendment to the Pender County Ordinance will be required. A sample road maintenance agreement can be seen below.

**DECLARATION OF RESTRICTIONS**

**AND PROVISIONS FOR PRIVATE ROAD MAINTENANCE**

**ORANGE COUNTY**

**THIS DECLARATION**, made this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by **[INSERT NAME OF DECLARANTS]**, hereinafter called Declarants, having a mailing address of **[INSERT MAILING ADDRESS HERE]**.

**WITNESSETH:**

**WHEREAS**, Declarants own in fee simple the real property described in Article 1 below; and

**WHEREAS**, the said property will have access to **[INSERT NAME OF STATE ROAD HERE]** (S.R.) via the private roads shown on the plat hereinafter referred to, said private roads being known as **[INSERT NAME OF PRIVATE ROADS HERE]** (hereinafter referred to as private road); and

**WHEREAS**, Declarants by this Declaration of Restrictions, wish to bind themselves, their successors and assigns to provide all owners of any portion of said property owned by Declarants described below perpetual ingress, egress and regress to State Roads; and

**WHEREAS**, Declarants by this Declaration of Restrictions, wish to bind themselves, their successors and assigns to provide for maintenance of said private road until such time as the said private road is accepted by the State of North Carolina for maintenance;

**NOW, THEREFORE**, Declarants agree for themselves and with any and all persons, firms or corporations hereafter acquiring any of the property described in Article 1 below, that the same shall be subject to the following restrictions, conditions, and covenants relating to the use and occupancy thereof, which restrictions, conditions, and covenants shall run with the said property and insure to the benefit of and be binding upon the heirs, successors and assigns of Declarants and other acquiring parties and persons.

**Article 1.** The real property which is, and shall be, held, transferred, sold and conveyed subject to the protective and restrictive covenants set forth in the various Articles of this declaration is located in **[INSERT NAME OF TOWNSHIP HERE]** Township, Orange County, North Carolina, and is more particularly described as follows:

**[INSERT APPROPRIATE LEGAL DESCRIPTION OF ALL TRACTS BURDENED BY THE PRIVATE ROAD EASEMENT - INCLUDE PLAT REFERENCE]**

**Article 2.** Declarants hereby grant unto themselves and the future record owners of the aforesaid property adjoining and abutting the private road as shown on the aforesaid recorded plat(s) and as said private road may be extended into the aforesaid property, perpetual ingress, egress and regress over, on

and under the said private road including the use of the road for the purposes of installation and maintenance of utilities.

**TO HAVE AND TO HOLD** the above-described easement as an appurtenance to all of the property, which easement shall run with said lands forever.

**Article 3.** The road shall be maintained to Class [INSERT ROAD CLASS HERE] road standards as prescribed by Orange County now and as the same may be revised from time to time.

For so long as Declarants shall be willing and able to serve they shall be responsible for:

1. Determining what maintenance is necessary in order to maintain [INSERT ROAD NAME HERE].
2. Contracting repairs and notifying the owners of Lot abutting [INSERT ROAD NAME HERE] of their respective assessments at least annually; and
3. Estimating the costs of maintenance in advance, and depositing the funds received in a separate account, the records of which shall be available for inspection by any owner subject to assessment.

If at any time Declarants are unable or unwilling to provide for the maintenance of said road, the owners of the subdivided lots as shown on the recorded plats herein before referred to shall be responsible for maintenance as herein provided. Any owner of a subdivided lot within said property served by said road or the owner of any interest therein, shall have the right to enforce the maintenance standard by sending by registered or certified mail, return receipt requested, written notice of all proposed maintenance and of the time and place of a meeting of the said record owners (said meeting to take place no less than 10 days following the mailing of such notice) to all such record owners at their last known addresses as shown on the Orange County Tax Records.

At such owners' meeting all maintenance shall be approved by a majority of the votes cast (each owner having one vote for each subdivided lot owner and three for each dwelling unit on a lot).

Every owner of any of the aforesaid property using said road shall bear on a pro-rata basis the cost of maintaining said private road, this being each owner's pro-rata share for grading costs, gravel, or rock hauled in to fill ruts, holes, and washed-out sections and necessary replacement of or additional drainage culverts.

Each owner's pro-rata share of the maintenance costs of said private road shall be the total cost of maintenance multiplied by said owner's votes and divided by the total of all the owners' votes within the property. Each owner's pro-rata share of the maintenance cost of said private road shall be due and owing to whichever other owner initiated the maintenance enforcement within 10 days of the said owners' meeting. If not paid by that time, said initiating owner may file suit for the same on behalf of all of the owners.

Notwithstanding the vote at the owners' meeting, nothing in this Declaration of Restrictions shall be construed as denying any owner the right to see that the said road is maintained to Class [INSERT ROAD CLASS HERE] standards, and any owner may require that the maintenance requirements be submitted to binding arbitration under the rules and regulations of the American Arbitration Association (as governed by the Uniform Arbitration Act of North Carolina, North Carolina General Statutes Section 1.567.1 et seq, as it may be from time to time amended) by notice mailed to all said record owners at their last known addresses by registered or certified mail, return receipt requested, by 5:00 p.m. on the second working day following the owners' meeting, unless such arbitration notice is sent, the vote of the majority of the owners shall be conclusive as to what maintenance mandated by this Declaration of Restrictions.

**Article 4.** The private road located within said property may be dedicated to the public at the election of a majority vote of the owners under the same procedure used in Article 3 for the maintenance of said road. In that event, the owners and their successors in title and interest to any of the property

described herein will remain responsible for road maintenance by the North Carolina Department of Transportation or other governmental body.

It is probable that future development of the property described in Article 1 will require upgrading of the private road providing access to the property described in Article 1 to either a higher private road standard or to North Carolina Department of Transportation standards. In the event that Orange County or any other governmental body, as a condition to the approval of any further subdivision of the property described in Article 1, may require said private road to be upgraded above a Class **[INSERT ROAD CLASS HERE]** standard or publicly dedicated and constructed to Department of Transportation standards, then in that event, Declarants and all persons taking title to the property described in Article 1 shall be responsible for maintenance and the costs of maintenance of the entire road system to the new standard on the point system described in Article 3. Provided, however, that the initial cost of construction the road or any portion of the road to a higher private road standard or to Department of Transportation standards shall be borne solely by the owners of the portion of said property, the subdivision of which requires that the road or any portion of it be upgraded. The cost of construction the road or any portion of it to a higher private road standard or to Department of Transportation Standards shall be bared by the owners responsible for the upgrading according to the system described in Article 3. In the event public dedication of the said private road or any extension of the private road or portions thereof is required by Orange County, all persons taking title to the aforesaid property from and through Declarants shall dedicate to the public that portion of the road required to be dedicated.

**Article 5.** In the event that extensions are made to the said private road within the aforesaid property, or to other property, or for utility access to other property, the costs of maintaining the entire road system shall be borne by all the record owners of any property served by the entire road system as set forth in Article 3; provided, however, that the initial costs of constructing any extension of the road shall be borne solely by the owners of the portion of said property abutting said road extension as they may agree, or if they do not agree, then among them by the same point system as set out above.

**Article 6.** This Agreement shall remain in full force and effect as to said road or any portion thereof until such time as said road or any portion thereof shall be taken over by the North Carolina Department of Transportation for maintenance purposes, and any portion of said road not so taken over by the North Carolina Department of Transportation shall remain subject to this Agreement. Declarants accept all liability related to the use and maintenance of said road and agree to hold Orange County and the State of North Carolina harmless from such liability. Declarants acknowledge that some public services may not be provided to the lots abutting the said private road due to the private nature of said road.

**Article 7.** This agreement is to govern the maintenance of said road when subject to ordinary use. If any owner liable under this agreement shall cause any extraordinary wear and tear on said road by building, well drilling, or other heavy use, said owner shall be responsible to pay such extraordinary costs of maintenance as is caused by said use. If the responsibility for such extraordinary costs of maintenance is not agreed between the owners at an owners' meeting called under the provisions of Article 3 above, the responsibility for said cost shall be subject to binding arbitration as set out in Article 3 above.

**Article 8.** This Agreement shall run with and be appurtenant to the land and shall be binding upon the heirs, successors, and assigns of each record owner of the aforesaid property. When used in this Agreement, the singular shall include the plural, the masculine shall include the feminine and the neuter, and vice versa, as the meaning may require.

**IN WITNESS WHEREOF**, Declarants have caused this instrument to be signed and sealed on the day and year first written above.

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

NORTH CAROLINA

\_\_\_\_\_ COUNTY

I, a Notary Public of said State and County, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing Declaration of Restrictions and Provisions for Private Road Maintenance.

Witness my hand and notarial seal, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**STATE OF NORTH CAROLINA  
COUNTY OF ORANGE**

I, a Notary Public of said State and County, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing Declaration of Restrictions and Provisions for Private Road Maintenance.

Witness my hand and notarial seal this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_