



## REQUEST FOR BOARD ACTION

ITEM NO. 24.

**DATE OF MEETING:** September 17, 2012

**REQUESTED BY:** Ashley Frank, Planner II, Planning & Community Development Department

**SHORT TITLE:** Public Hearing and Resolution Requesting Approval of a Zoning Map Amendment for a General Use Rezoning for Two (2) Tracts from RP, Residential District to GB, General Business District.

**BACKGROUND:** John and Christopher Batts, applicants and owners, are requesting approval of a Zoning Map Amendment for a general use rezoning of two (2) tracts totaling 2.46 acres from RP, Residential Performance District, to GB, General Business District. The property is located at 71 Mill Creek Road, Hampstead, along the northeast corner of NC Highway 50 and Mill Creek Road just east of Shepards Road, and may be identified by Pender County PINs: 4236-32-9928-0000 and 4236-33-9282-0000.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider a request for a Zoning Map Amendment for a general use rezoning of two (2) tracts totaling 2.46 acres from RP, Residential Performance District, to the GB, General Business District.



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**PLANNING STAFF REPORT**  
**Zoning Map Amendment**

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**SUMMARY:**

**Hearing Date:** August 7, 2012- Planning Board  
September 17, 2012- Board of Commissioners

**Case Number:** 10753- Batts (ZMA)

**Applicant:** John and Christopher Batts

**Property Owner:** John and Christopher Batts

**Rezoning Proposal:** John and Christopher Batts, applicants and owners, are requesting approval of a Zoning Map Amendment for a general use rezoning of two (2) tracts totaling 2.46 acres from RP, Residential Performance District, to the GB, General Business District.

**Property Record Numbers, Acreage, and Location:** The property is located at 71 Mill Creek Road, Hampstead, along the northeast corner of NC Highway 50 and Mill Creek Road just east of Shepards Road, and may be identified by Pender County PINs: 4236-32-9928-0000 and 4236-33-9282-0000.

**Planning Board Recommendation:** On August 7, 2012, the Pender County Planning Board voted unanimously in favor of passing a motion to recommend APPROVAL of the aforementioned rezoning request.

**Staff Recommendation:** The request complies with the criteria set forth in Article 3.3.8 of the Unified Development Ordinance. The request is consistent with the 2005 CAMA Land Use Plan and is not in conflict with 2010 Comprehensive Land Use Plan. The Pender County Planning Board is recommending approval of this request; therefore, staff respectfully recommends that the request be approved.

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**HISTORY:**

An existing legal non-conforming business is located on tract 1 of this request. The J. L. Batts Pile Driving and Crane Service was established prior to the November 17, 2003 comprehensive county rezoning. Prior to that date, tract #1 and tract #2 were zoned B-2, Business Highway.

In April of 2012, Mr. Batts applied for a building permit on the subject property for the construction of an accessory building; with the current zoning of RP, Residential Performance, the expansion of non-conformity is not permitted as outlined in 11.3.1 of the Pender County Unified Development Ordinance (UDO). Subsequently, the construction of an accessory structure requires a permitted principal use.

In order to come into compliance with the UDO, the applicants would need to rezone the property to allow any future expansion of the use/business. A nonconforming use is a principal or accessory land use, that was lawfully established in accordance with zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which it is now located.

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**DESCRIPTION:**

John and Christopher Batts, applicants and owners, are requesting approval of a Zoning Map Amendment for a general use rezoning of two (2) tracts totaling 2.46 acres from RP, Residential Performance District, to the GB, General Business District. The properties are located on the northeast corner of NC Highway 50 and Mill Creek Road. Located on tract #1 (1.47 acres), addressed as 41 Mill Creek Road is an existing legal non-conforming business (pile driving and crane service); tract 2 is currently vacant (0.99 acres).

The properties have direct access to NC Highway 50 and Mill Creek Road (SR#1588). The North Carolina Department of Transportation would require the existing driveways to be evaluated at the time of the business expansion.

This is a general use rezoning which will encompass all uses permitted-by-right in the GB, General Business District, as shown on the Permitted Use Table 5.2.3 of the Pender County Unified Development Ordinance. The General Business district is primarily intended to accommodate uses which require close access to major highways. The district is established to provide convenient locations for businesses which serve the needs of surrounding residents, including office, retail, and personal service uses.

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**EVALUATION:**

- A) Public Notifications:** Public Notice of the proposal for map change has been advertised in the Pender-Topsail Post and Voice. Adjacent property owners have been given written notice of the request, as well as a sign placed on the subject property.
- B) Existing Zoning in Area:** All the adjoining and adjacent properties are zoned RP, Residential Performance District with the exception the property to the south which is located within the Surf City Municipal Limits and is zoned NB, Neighborhood Business District, according to the Surf City Zoning Map dated July 16, 2012.
- C) Existing Land Use in Area:** The existing land use in the area includes low density residential and vacant tracts to the north. Along the eastern boundary of the tracts are single family homes. To the south are vacant tracts and an automotive/boat repair business and to the west is Parkside Manufactured Home Park and a vacant commercial use.
- D) 2005 CAMA Land Use Plan Compliance:** The 2005 CAMA Land Use Plan classifies the subject property as an Urban Growth Area. This land classification provides for the continued development of areas provided with water and/or sewer services or where the county is actively engaged in planning these community services. These areas also have excellent access to the regional transportation system for a mixture of more intensive commercial and industrial or job creating uses and a range of residential land uses and housing types.
- E) 2010 Comprehensive Land Use Plan Compliance:** The 2010 Comprehensive Land Use Plan classifies the subject property as Mixed Use, which is a land use classification designating locations where a mixture of higher density/intensity uses are to be encouraged. The following goals and policies within this plan support the rezoning request:
- 1. Growth Management Goal 1A.1**  
*Manage the physical growth and development of Pender County by promoting more intensive land uses in key locations identified for such growth while preserving and protecting the unique physical character and social assets of the predominant rural lifestyle and coastal environment that makes the County a unique place to live.*

- a. **Policy 1A.1.1:** Encourage development in and around municipal corporate limits and other developed areas within the County to yield a more compact pattern of development that will reduce suburban/rural sprawl.
- b. **Policy 1A.1.5:** The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.

**2. Economic Development Goal 10A.1**

*Promote economic development which meets the needs of the County for expanding the non-residential tax base and providing well-paying jobs.*

- a. **Policy 10A.1.6:** New and expanding industries and businesses shall be encouraged to 1) diversify the local economy, 2) train and utilize a more highly skilled labor force and 3) increase per capita income.

Additionally, the Zoning Map Amendment (ZMA) request does not conflict with any goals and policies in the 2010 Pender County Comprehensive Land Use Plan.

**F) Unified Development Ordinance Compliance:** Article 3.3.8 of the Unified Development Ordinance provides for standards that shall be followed by the Planning Board before a favorable recommendation of approval for rezoning can be made. The proposed rezoning meets the standards of Article 3.3.8 of the Unified Development Ordinance.

**3.3.8 Review Criteria for Rezoning**

*The Planning Board and Board of Commissioners shall consider the following matters in considering a rezoning request:*

- A. *Whether the range of uses permitted by the proposed change would be appropriate to the area concerned (including not being detrimental to the natural environment, not adversely affecting the health or safety of residents or workers in the area, not being detrimental to the use or development of adjacent property, and not materially or adversely affecting the character of the general neighborhood);*
- B. *Whether adequate public facilities/services (i.e., water, wastewater, roads) exist, are planned, or can be reasonably provided to serve the needs of any permitted uses likely to be constructed as a result of such change;*
- C. *Whether the proposed change is consistent with the County's Comprehensive Land Use Plan and CAMA Land Use Plan or any other adopted land use document.*
- D. *Whether the proposed amendment is reasonable as it relates to the public interest.*

**G) Summary & Staff Recommendation:** This proposal consists of a Zoning Map Amendment for a general use rezoning of two (2) tracts totaling 2.46 acres from RP, Residential Performance District, to the GB, General Business District. The request complies with the criteria set forth in Article 3.3.8 of the Unified Development Ordinance. The request is consistent with the 2005 CAMA Land Use Plan and is not in conflict with 2010 Comprehensive Land Use Plan. The Pender County Planning Board is recommending approval of this request; therefore, staff respectfully recommends that the request be approved.

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**TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:**

**Cape Fear Council of Governments RPO**

*No response.*

**Four County Electric Company**

*No response.*

**NC DENR Division of Coastal Management**

*No comment.*

**NC DENR Division of Forestry**

*No response.*

**NC DENR Division of Land Resources**

*No response.*

**NC DENR Division of Waste Management**

*No response.*

**NC DENR Division of Water Quality**

*The Division of Water Quality would like to have the properties checked for wetlands and if there are wetlands have them verified and surveyed. The project may be required to get a stormwater permit if they add more than 10,000 sf of built upon area (bua) or disturb over an acre of land or modify their existing permit if they add any more bua. The stormwater section may need to be contacted if there any additional questions.*

**NC DOT Division of Highways**

We have no comments on the expansion. Future use may require a driveway permit.

**NC DOT Transportation Planning Branch**

*No response.*

**NC Office of State Archaeology**

*No response.*

**NC Wildlife Resources Commission**

*No response.*

**Pender County Building Inspections**

*No response.*

**Pender County Emergency Management**

*No response.*

**Pender County Environmental Health**

*No response.*

**Pender County Fire Marshal**

*We do NOT have problems with this request.*

**Pender County Parks and Recreation**

*No issues with this request.*

**Pender County Public Library**

*No response.*

**Pender County Public Utilities**

*No response.*

**Pender County Schools**

*No response.*

**Pender County Sheriff's Department**

*No response.*

**Pender County Soil and Water Conservation District**

*Soil & Water sees no problem with this request.*

**Progress Energy Corporation**

*No response.*

**US Army Corps of Engineers**

*No response.*

**Wilmington Metropolitan Planning Organization**

*The WMPO has no concerns for this request.*

**The Town of Surf City**

*The Town of Surf City has some residential development being proposed down Mill Creek Rd. When this expansion of operations takes place will the owner be required to landscape and provide other improvements to be in compliance with County ordinances? Also, will a NCDOT driveway permit be required for the future development as both roads are state maintained.*

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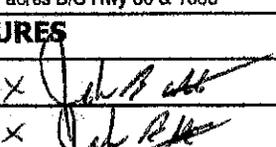
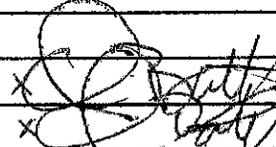
**Planning Board**

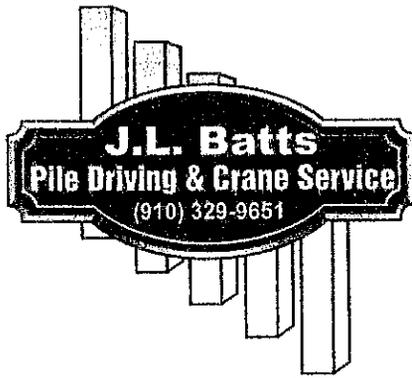
Motion: \_\_\_\_\_ Seconded: \_\_\_\_\_

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

Boney: \_\_\_ Williams: \_\_\_ Edens: \_\_\_ Garrett: \_\_\_ Marshburn: \_\_\_ Millette: \_\_\_ Nalee: \_\_\_

## APPLICATION FOR REZONING (Zoning Map Amendment)

THIS SECTION FOR OFFICE USE			
Application No.	ZMA # 10754	Date	6.19.2012
Application Fee	\$ 500.00	Receipt No.	HA 091767
Pre-Application Conference	4.24.2012	Hearing Date	PB August 7 2012 BOC Sept. 17 2012
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	John Batts, Christopher Batts	Owner's Name:	John Batts, Christopher Batts
Applicant's Address:	71 Mill Creek Rd, PO Box 2165	Owner's Address:	71 Mill Creek Rd, PO Box 2165
City, State, & Zip	Hampstead, NC 28443; Surf City, NC 284	City, State, & Zip	Hampstead, NC 28443, Surf City, NC
Phone Number:	910-367-0959	Phone Number:	910-367-0959
Legal relationship of applicant to land owner: self			
<b>SECTION 2: PROJECT INFORMATION</b>			
Property Identification Number (PIN):	4236-32-9928; 4236-33-9282	Total property acreage:	1.47 acres; .99 acres
Current Zoning District:	Res - RP	Proposed Zoning District:	General Use GB
Project Address :	41 Mill Creek Rd. Hampstead, NC 28443; Mill Creek Rd., Hampstead, NC 28443		
Description of Project Location:	1.47 acres B/S Hwy 50 & 1588		
	.99 acres B/S Hwy 50 & 1588		
<b>SECTION 3: SIGNATURES</b>			
Applicant's Signature		Date:	6/8/12
Owner's Signature		Date:	6/8/12
<b>NOTICE TO APPLICANT</b>			
<ol style="list-style-type: none"> <li>1. Applicant must also submit the information described on the Rezoning Checklist.</li> <li>2. Applicant or agent authorized in writing must attend the public hearing.</li> <li>3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Planning Board or other authorized person agrees to table or delay the hearing.</li> <li>4. All fees are non-refundable.</li> <li>5. A complete application packet must be submitted prior to the deadline in order to be placed on the next Planning Board Agenda.</li> </ol>			



*Building Your Future On Our Foundations*

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71 Mill Creek Road  
Hampstead, NC 28443  
Phone (910) 329-9651  
Fax (910) 329-4434  
Cell (910) 367-0957  
E-mail: jlbatts1@embarqmail.com  
www.jlbattspiledriving.com

Re: Parcel ID #s: 4236-329928 & 4236-33-9282

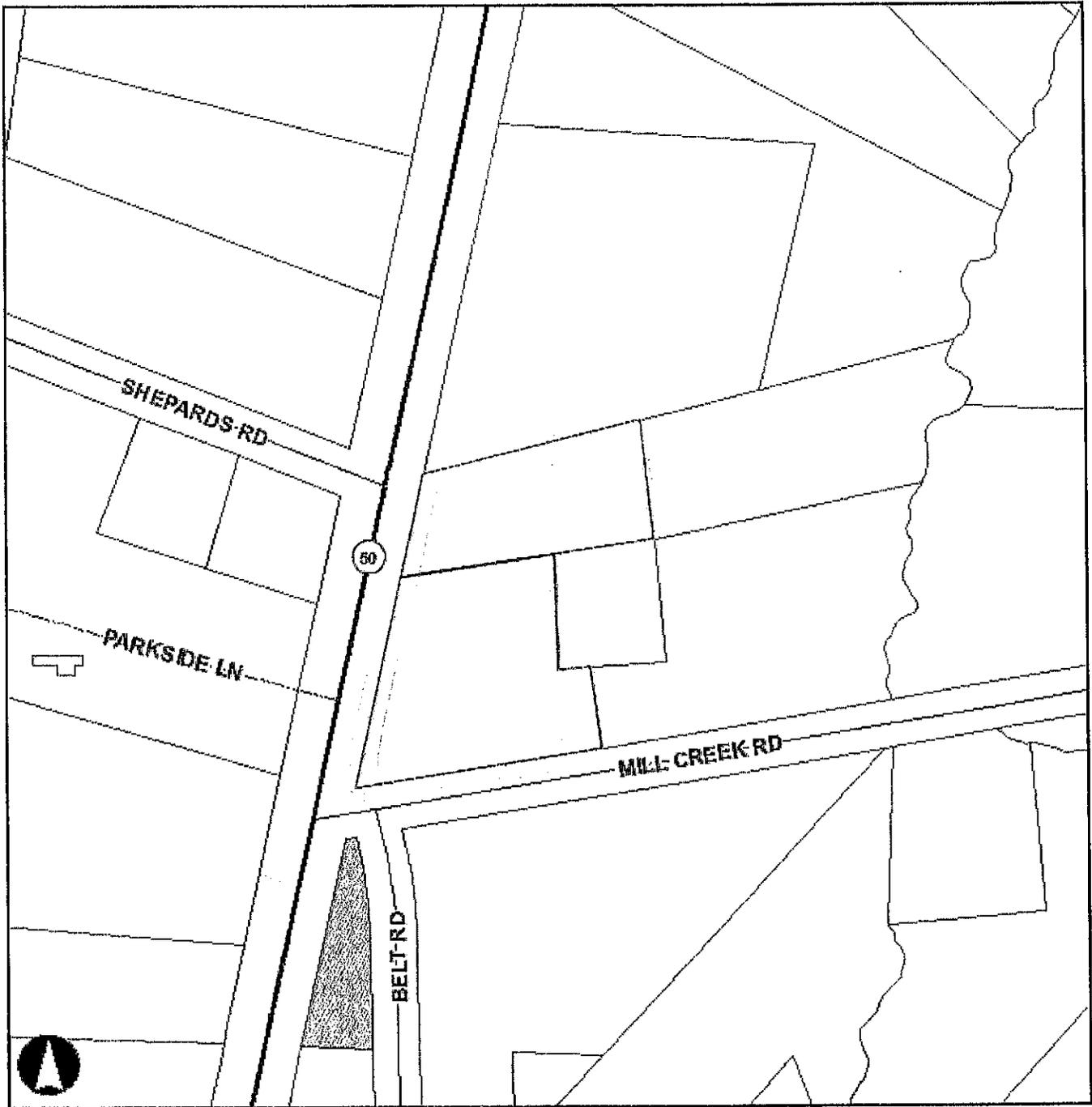
Dear Boards,

We are applying to rezone our properties to General Business in order to expand the business and for future use.

Thank you,

John Batts

Chris Batts



Scale: 1:200



PIN: 4236-33-9282-0000  
 NAME: BAYTS CHRISTOPHER  
 ADDR: PO BOX 2165  
 CITY: SURF CITY  
 STATE: NC  
 ZIP: 28445  
 PROPERTY ADDRESS: MILL CREEK RD  
 PROPERTY DESCRIPTION: .99 ACRES B/S HWY  
 50 & 1588  
 DATE: 3/18/2004

DEED: 2342/040  
 PLAT: NOPLAT  
 ACCOUNT: 854969.000000  
 TOWNSHIP: 102  
 TNSH DESC: TOPSAIL  
 ACRES: 0.99  
 LAND VALUE: \$29,700.00  
 BUILDING VALUE: \$0.00  
 TOTAL VALUE: \$29,700.00  
 DEFERRED VALUE: \$0.00  
 SUBDIVISION: Null

FILED

BK 2342PG047

04 MAR 18 AM 10:18

JOYCE M. SWICEGOOD  
REGISTER OF DEEDS  
PENDER COUNTY, NC

Accepted and Certified  
Joyce M. Swicegood  
Register of Deeds  
Pender County, NC

*JK*  
Excise Tax: 0.54

**NORTH CAROLINA GENERAL WARRANTY DEED**

Parcel Identifier No. \_\_\_\_\_ Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
By: \_\_\_\_\_

Mail/Box to: Robert C. Kenan, Jr. Post Office Box 957, Burgaw, NC 28425

This instrument was prepared by: Robert C. Kenan, Jr.

Brief description for the Index:

THIS DEED made this 15th day of March, 2004, by and between

GRANTOR



GRANTEE

Rudolph Batts and wife,  
Rosa Lea Batts

John L. Batts and wife,  
Mary E. Batts  
660 Mill Creek Road  
Hampstead, NC 28443

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

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

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

**Being all of that certain 1.465 acres more or less in Topsail Township, Pender County, North Carolina and being more fully described on attached Exhibit "A".**

The property hereinabove described was acquired by Grantor by instrument recorded in Book , page .

A map showing the above described property is recorded in Map Book , Page .

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

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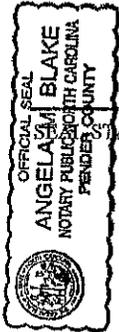
And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, that the title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

1. 2004 Pender County ad valorem taxes and subsequent years.
2. Restrictions and easements of record, if any.
3. Pender County zoning ordinances.

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

Rudolph Batts (SEAL)  
Rudolph Batts

Rosa Lee Batts (SEAL)  
Rosa Lea Batts



STATE OF NORTH CAROLINA - COUNTY OF Pender  
I, Angela M. Blake, the undersigned Notary Public of the County and State aforesaid, certify that Rudolph Batts and wife, Rosa Lea Batts personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 15 day of March, 2004.

My Commission Expires:  
11/07/2007

Angela M. Blake  
Notary Public

The foregoing Certificate(s) of Angela M. Blake  
is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

**JOYCE M. SWICEGOOD** Register of Deeds for Pender County  
By: Sharon B. Willoughby Deputy ~~Assistant~~ Register of Deeds

*EXHIBIT "A"*

Located in Topsail Township, Pender County, North Carolina adjacent to and East of the centerline of N.C. Highway No. 50 and being more fully described as follows, to wit:

BEGINNING at a nail and cap in the centerline of N.C. Highway No. 50, said nail and cap being located along said line at a point that is South 18 Degrees 42 Minutes 00 Seconds West 132.44 feet from an existing iron stake located in the intersection of the centerline of Secondary Road No. 1533 with the centerline of N.C. Highway No. 50; and running thence, from the Beginning, so located,

(1) with the center of a 30 foot wide driveway easement North 87 Degrees 22 Minutes 16 Seconds East 254.60 feet (passing over an in line iron stake at 54.50 feet) to an iron stake in line; thence,

(2) South 05 Degrees 38 Minutes 09 Seconds West 147.25 feet to an iron stake in line; thence,

(3) South 87 Degrees 52 Minutes 44 Seconds East 44.35 feet to a subsurface iron stake in the center of a 20 foot wide driveway easement; thence,

(4) with the center of said 20 foot wide driveway easement South 01 Degrees 10 Minutes 00 Seconds East 139.22 feet (passing over a nail and cap in the paved centerline of Secondary Road No. 1588 at 131.62 feet) to a point in the old boundary line; thence,

(5) with said old boundary line South 87 Degrees 43 Minutes 58 Seconds West 280.85 feet to an existing Subsurface spike in Secondary Road No. 1588; thence,

(6) continuing with the old boundary line North 67 Degrees 22 Minutes 02 Seconds West 98.19 feet to an existing subsurface iron stake in the centerline of N.C. Highway No. 50, said stake being located at a point that is South 47 Degrees 14 Minutes 09 Seconds West 95.91 feet from N.C. Grid Monument "KOTTAGE"; thence,

(7) with the centerline of N.C. Highway No. 50 North 18 Degrees 42 Minutes 00 Seconds East 262.86 feet to the Beginning, containing 1.465 acres more or less after the exclusion of that portion of N.C. highway No. 50 (100 foot wide Right-of-Way) and that portion of Secondary Road No. 1588 (60 foot wide Right-of-Way) contained within the above described boundaries and is as surveyed by Thompson Surveying Co., P.A. of Burgaw, N.C. during March 2004.

## EXHIBIT "A" Con't

The above described tract is "Together with" and partially "Subject to" a 30 foot wide access easement for purposes of ingress, egress and regress to and from these and other lands with said easement lying adjacent to and 15 feet on either side of the following described centerline, to wit:

BEGINNING at a nail and cap in the centerline of N.C. Highway No. 50, said nail being located along said line at a point that is South 18 Degrees 42 Minutes 00 Seconds West 132.44 feet from an existing iron stake located in the intersection of the centerline of N.C. Highway No. 50 with the centerline of Secondary Road No. 1533; and running thence, from the Beginning, so located,

(1) North 87 Degrees 22 Minutes 16 Seconds East 382.66 feet to a subsurface iron stake in line; thence,

(2) North 84 Degrees 54 Minutes 02 Seconds East 20.00 feet to a point that marks the terminus of this 30 foot wide access easement.

The above described tract is "Together with" and partially "Subject to" a 20 foot wide driveway easement for purposes of ingress, egress and regress to and from these and other lands with said easement lying adjacent to and 10 feet on either side of the following described centerline, to wit:

BEGINNING at a point in the old Southern Boundary line as it runs along Secondary Road NO. 1588, said point being located along said line at a point that is the following courses and distances from an old iron stake located in the intersection of the centerline of Secondary Road No. 1533 with the centerline of N.C. Highway No. 50: South 18 Degrees 42 Minutes 00 Seconds West 395.30 feet, South 67 Degrees 22 Minutes 02 Seconds East 98.19 feet and North 87 Degrees 43 Minutes 58 Seconds East 280.85 feet to the Beginning; and running thence, from the Beginning, so located,

(1) North 01 Degrees 10 Minutes 00 Seconds West 139.22 feet (passing over an in line nail and cap in the centerline of Secondary Road No. 1588 at 7.60 feet) to a subsurface iron stake that marks the terminus of this 20 foot wide easement.

As a reference to the above described tract see Deed Book 429 at Page 593 and Tract No. 6 of Map Book 7 at Page 116 of the Pender County Registry.

FILED

BK 2342 PG 040

04 MAR 18 AM 10:17

JOYCE M. SWICEGOOD  
REGISTER OF DEEDS  
PENDER COUNTY, NC

Recorded  
Joyce M. Swicegood  
Register of Deeds  
Pender County, NC

Excise Tax: GIFT

**NORTH CAROLINA GENERAL WARRANTY DEED**

Parcel-Identifier No. \_\_\_\_\_ Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
By: \_\_\_\_\_

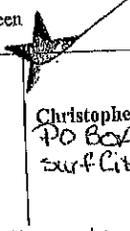
Mall/Box to: Robert C. Kenan, Jr. Post Office Box 957, Burgaw, NC 28425

This instrument was prepared by: Robert C. Kenan, Jr.

Brief description for the Index:

THIS DEED made this 15th day of March, 2004, by and between  
\_\_\_\_\_  
GRANTOR

Rudolph Batts and wife,  
Rosa Lea Batts



GRANTEE

Christopher Batts (divorced)  
PO Box 2165  
Surf City, NC 28445

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

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

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

Located in Topsall Township, Pender County, North Carolina adjacent to and East of the centerline of N.C. Highway No. 50 and being more fully described as follows, to wit:

BEGINNING at an existing iron stake in the intersection of the centerline of N.C. Highway No. 50 with the centerline of Secondary Road No. 1533; and running thence, from the Beginning, so located,

- (1) with the old boundary line North 82 Degrees 13 Minutes 51 Seconds East 342.72 feet to a point in line; thence,
- (2) South 00 Degrees 05 Minutes 02 Seconds East 154.22 feet to a subsurface iron stake in the center of a 30 foot wide driveway easement; thence,
- (3) with the center of said easement South 87 Degrees 22 Minutes 16 Seconds West 382.66 feet (passing over inline iron

(2)

stakes at 128.06 feet and 328.16 feet) to a nail and cap in the centerline of N.C. Highway No. 50; thence,

(4) with the centerline of said road North 18 Degrees 42 Minutes 00 Seconds East 132.44 feet to the Beginning, containing 0.988 acres more or less after the exclusion of that portion of N.C. Highway No. 50 (100 foot wide Right-of-Way) contained within the above described boundaries and is as surveyed by Thompson Surveying Co., P.A. of Burgaw, N.C. during March 2004.

The above described tract is "Together with" and partially "Subject to" a 30 foot wide driveway easement for purposes of ingress, egress and regress to and from these and other lands with said easement lying adjacent to and 15 feet on either side of the following described centerline, to wit:

BEGINNING at a nail and cap in the centerline of N.C. Highway No. 50, said nail being located at a point that is South 18 Degrees 42 Minutes 00 Seconds West 132.44 feet from an existing subsurface iron stake in the intersection of the centerline of Secondary Road No. 1533 with the centerline of N.C. Highway No. 50; and running thence, from the Beginning, so located,

(1) North 87 Degrees 22 Minutes 16 Seconds East 382.66 feet to a subsurface iron stake in line; thence,

(2) North 84 Degrees 54 Minutes 02 Seconds East 20 feet to a point that marks the terminus of this 30 foot wide driveway easement.

As a reference to the above described tract see Deed Book 429 at Page 593 and tract No. 6 of Map Book 7 at Page 116 of the Pender County Registry.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 429, page 593.

A map showing the above described property is recorded in Map Book 7, Page 116.

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

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

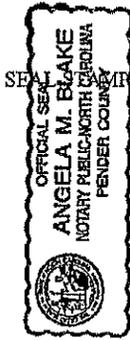
1. 2004 Pender County ad valorem taxes and subsequent years.
2. Restrictions and easements of record, if any.
3. Pender County zoning ordinances.

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

Rudolph Batts (SEAL)  
Rudolph Batts

Rosa Lea Batts (SEAL)  
Rosa Lea Batts

BK 2342 PG 042



State of North Carolina, County of Pender  
I, Angela M. Blake, the undersigned Notary Public of the County and State aforesaid, certify that Rudolph Batts and wife, Rosa Lea Batts personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 18 day of March 2004.

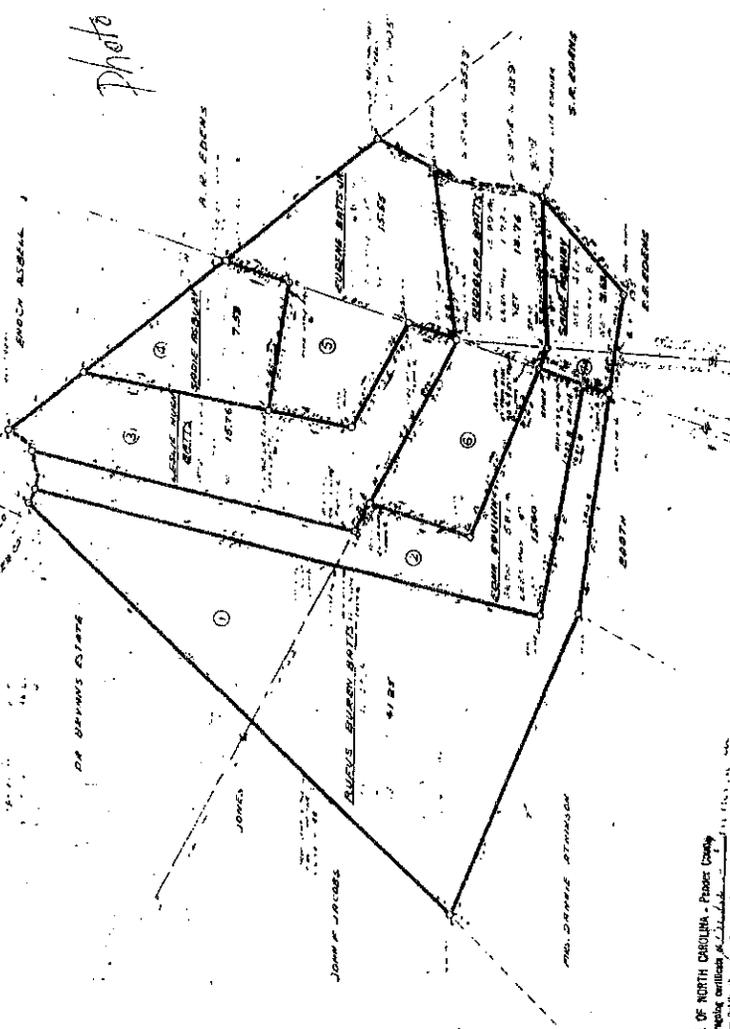
My Commission Expires: 11/07/2007

Angela M. Blake  
Notary Public

The foregoing Certificate(s) of Angela M. Blake  
is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

**JOYCE M. SWICEGOOD** Register of Deeds for Pender County  
By: Sharon B. Wiloughby Deputy/Assistant Register of Deeds

photo



STATE OF NORTH CAROLINA - Pender County  
 The following certificate is hereby published for the record, to wit: That the within and foregoing map is a true and correct copy of the original map as the same was filed in the office of the Register of Deeds for Pender County, North Carolina, on the 15th day of January, 1961, and that the same is a true and correct copy of the original map as the same was filed in the office of the Register of Deeds for Pender County, North Carolina, on the 15th day of January, 1961.

DIVISION OF

# EUGENE BATTS ESTATE

TOPSAIL TOWNSHIP PENDER CO., N.C.

111.04 ACRES ±

JANUARY 30, 1961

SCALE 1" = 300'



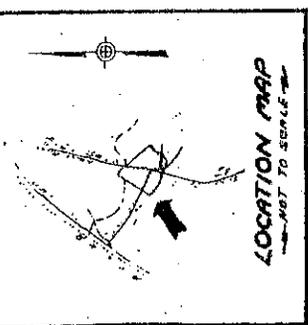
REGISTERED SURVEYOR  
 ROCKY POINT, N.C.

**NOTES:**

THIS MAP REPRESENTS A SURVEY TAKEN FROM MAP OF EUGENE BATTS SURVEY IN DIVISION OF N.C. MAPS, AND SURVEYED BY JACKSON F. B. BICE, CONSULTING ENGINEER, ROCKY POINT, N.C. 457 MAP OF 1948.

**LEGEND:**

- PROPERTY LINE AS SHOWN ON MAP
- ADJOINING REGISTERED PROPERTY
- 1/2" LINE, RIGHT OF WAY WITH DETAILS OF TOWNSHIP
- PROPERTY CORNER



**AREA:**  
 115.00 ACRES  
 7.84 ACRES  
 117.84 ACRES

STATE OF NORTH CAROLINA  
 PENDER COUNTY  
 I, R. C. WILSON, A SURVEYOR BEING  
 DULY SWORN, SAYS THAT THIS MAP  
 MADE BY HIM AND COMPANY, IN  
 JANUARY 1961, THAT THE BATTEN  
 AND DEPARTURES, THAT THIS MAP WAS  
 MADE IN ACCORDANCE WITH S. E. 27-  
 20 AS AMENDED AND IN CONFORMITY TO  
 THE ACT OF 1870 AS AMENDED AND  
 OTHER LAWS.  
 WITNESSED MY HAND AND SEAL  
 OF OFFICE, THIS 15th DAY OF JANUARY,  
 1961.

REGISTERED SURVEYOR  
 ROCKY POINT, N.C.