REQUEST FOR BOARD ACTION

ITEM NO. 5.

DATE OF MEETING: April 15, 2013

REQUESTED BY: Michael G. Mack, Director, PCU

SHORT TITLE: Resolution by the Board of Directors of the Rocky Point/Topsail Water & Sewer District Accepting the Deed of Dedication and Affidavit from the Owners of the Bailey Shops of Hampstead for the Conveyance of Title to the Water Distribution System Properly Installed within the Shopping Center in Exchange for the Provision of Water to the Property.

BACKGROUND: In accordance with the Pender County Water and Sewer Ordinance, Article XII, Subsection II, 6.a: submission of a Deed of Dedication and Affidavit are required for acceptance of any new water and/or sewer extensions constructed to serve any structure within a subdivision prior to the commencement of water service by the District. With acceptance of these instruments, the conveyance of title to the infrastructure will occur and the District will become responsible for the permanent maintenance of the improvements. Staff is recommending acceptance of approximately 456 feet of 8" and 162 ft. of 4" water main, valves, hydrants and other water appurtenances to serve the Bailey Shops of Hampstead. All improvements have been inspected, engineer certified, and issued Final Approval by the NCDENR-Public Water Supply Section.

SPECIFIC ACTION REQUESTED: To consider a resolution accepting the Deed of Dedication and Owner's Affidavit for the water distribution improvements installed within the Bailey Shops of Hampstead.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

Initial

RESOLUTION

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

a resolution accepting the Deed of Dedication and Owner's Affidavit for the water distribution improvements installed within the Bailey Shops of Hampstead Shopping Center is approved. The Chairman/District Manager shall have the authority to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED_____ SECONDED_____

APPROVED_____ DENIED_____UNANIMOUS

YEA VOTES: Brown_____ McCoy _____Tate _____ Ward _____Williams ____

_____ 04/15/2013
George R. Brown, Jr., Chairman Date

_____ 04/15/2013
ATTEST Date

DEED OF DEDICATION

STATE OF NORTH CAROLINA

COUNTY OF PENDER

THIS DEED OF DEDICATION, made and entered into this the 7th day of February, 2013, by and between Bailey & Fuller Properties, LLC, of Onslow County, North Carolina, party of the first part, hereinafter referred to as "Owner", and ROCKY POINT/TOPSAIL WATER AND SEWER DISTRICT, a municipal corporation duly created and existing under the laws of the State of North Carolina, party of the second part, hereinafter referred to as Grantee;

W I T N E S S E T H:

That whereas Bailey & Fuller Properties, LLC is/are the owner(s) of a tract or parcel located in Topsail Township, Pender County, North Carolina, known as Bailey Shops of Hampstead, 15441 US Hwy 17, Hampstead, NC ;

And whereas Owner has caused to be installed water distribution lines under and along the road rights-of-way hereinafter described and referenced;

And whereas Owner wishes to obtain water from Grantee for the property and to make water from Grantee's system available to individual owners;

And whereas, in order to obtain water for said community subdivision, Owner must convey title to the water distribution system to Grantee through an instrument of dedication acceptable to Grantee;

NOW THEREFORE, Owner, in consideration of Grantee accepting said water lines and making water available to said community subdivision, does hereby convey to Grantee, its

lawful successors and assigns, the following described property; Water Distribution System; see Map attached as Exhibit A hereto.

TO HAVE AND TO HOLD said water lines and equipment above described together with the privileges and appurtenances thereto belonging to Grantee forever.

Together with non-exclusive easements over, along and upon the entire area of the streets [and right of way] depicted on the maps and serving the areas referenced above for purposes of entry into the subdivision for maintenance, repair and upkeep of the water distribution systems and for connecting the same to the individual lots developed or to be developed lying adjacent to said streets [and right of way] reserving unto Owners, its successors and assigns, equal rights of easement and easement over, in, along, and upon said streets for purposes of installing and maintaining such utilities as may be required for the development of said subdivision.

And Owner does hereby covenant that it is seized of said water lines and equipment described above in fee simple and has the right to convey the same in fee simple, that the same are free and clear of encumbrances, and that it will warrant and defend the title to the same against all persons whomsoever.

IN WITNESS WHEREOF, the Owner has caused this instrument to be duly executed, the day and year first above written.

Bailey & Fuller Properties, LLC
By: Bailey and Associates, Inc. (Managing Member)

By: _____
Christopher W. Bailey, President

STATE OF NORTH CAROLINA

COUNTY OF PENDER

I, a Notary Public of the County and State aforesaid, do hereby certify that Christopher W. Bailey personally came before me this day and acknowledged that he is President of Bailey and Associates, Inc., managing member of Bailey & Fuller Properties, LLC., being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 1th day of February, 2013.

Wanda T Reynolds

Signature of Notary Public

(Notary Seal)

WANDA T REYNOLDS NOTARY PUBLIC ONSLOW COUNTY, NC

Wanda T Reynolds

Printed or Typed Name of Notary Public

My Commission Expires: 9-3-2017

ACCEPTANCE OF DEED

This Deed of Dedication and accompanying Affidavit for (Name of Owner) was accepted by the Pender County Board of Commissioners on the _____ day of _____, 20___.

Pender County Board of Commissioners

_____

_____(Chairman)

_____

Glenda Pridgen

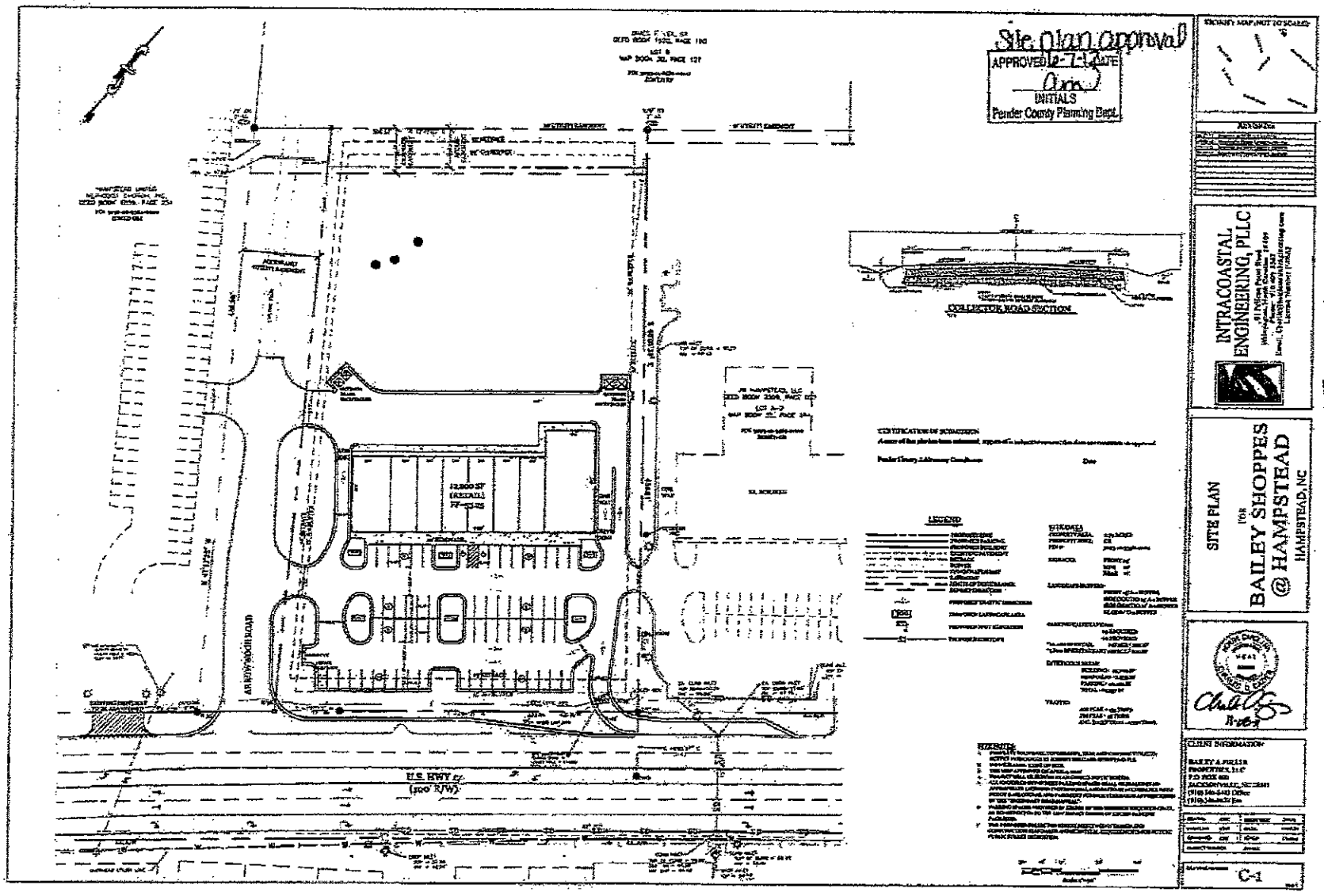
Clerk to the Board

Site plan approval

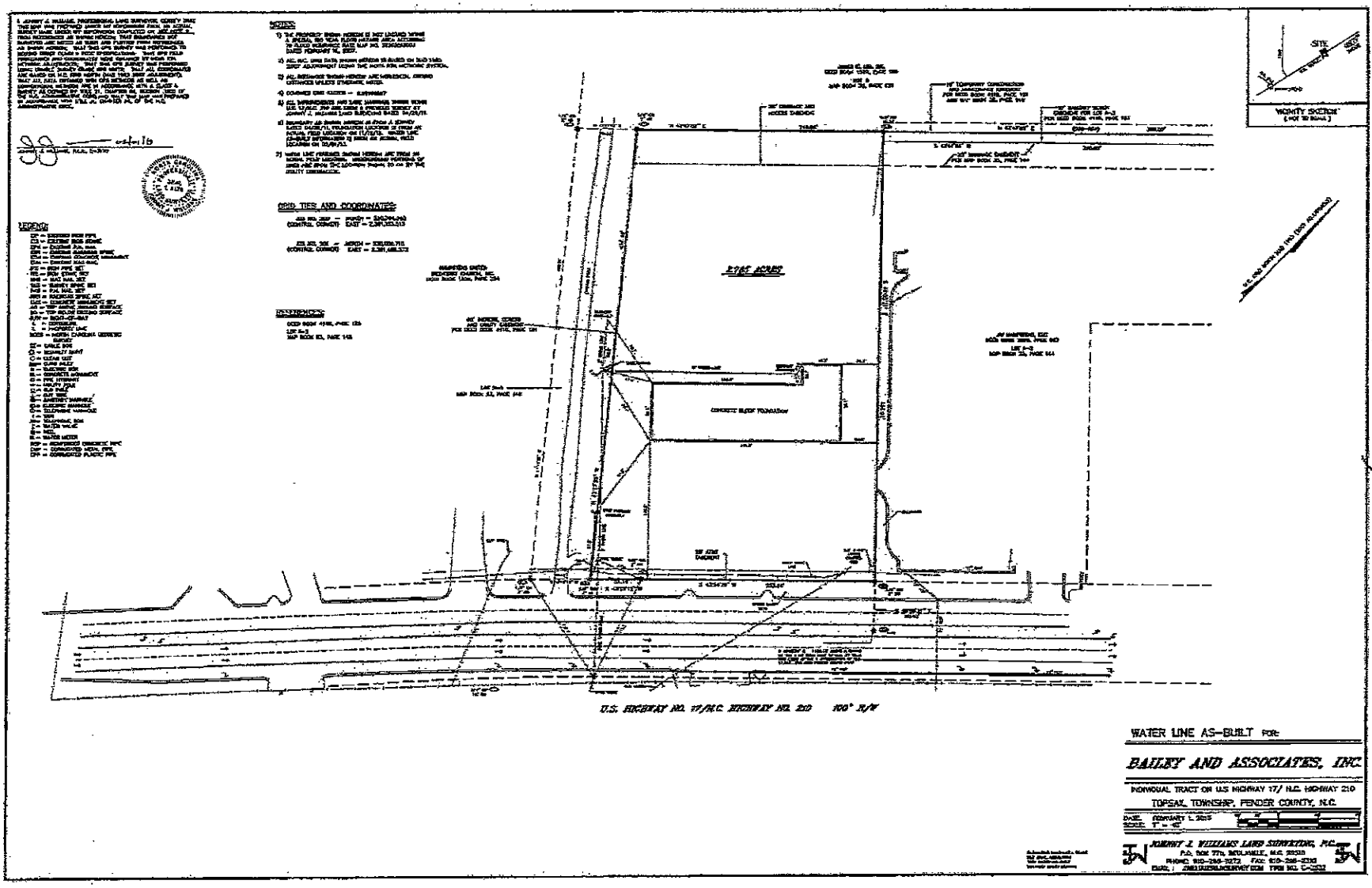
APPROVED 12-7-1 DATE

INITIALS

Pender County Planning Dept.



Ex A



NOTES:
GRID TIES AND COORDINATES:
REFERENCES:
LEGEND:
2785 ACRES
CONCRETE BLOCK FOUNDATION
U.S. HIGHWAY NO. 17/N.C. HIGHWAY NO. 210 100' R/W
SITE
VICINITY SKETCH
WATER LINE AS-BUILT FOR:
BAILEY AND ASSOCIATES, INC.
INDIVIDUAL TRACT ON U.S HIGHWAY 17/ N.C. HIGHWAY 210
TOPSAIL TOWNSHIP, PENDER COUNTY, N.C.
JOHNNY J. WILLIAMS LAND SURVEYING, P.C.

Ex A (Cont.)

AFFIDAVIT

STATE OF NORTH CAROLINA

COUNTY OF PENDER

Bailey & Fuller Properties, LLC a North Carolina Limited Liability Company, with an office and place of business in Onslow County, North Carolina, hereinafter referred to as Affiant, being first duly sworn, hereby deposes and says under oath as follows:

1. That it is the owner of certain property located in Hampstead Township, Pender County, North Carolina, known as Bailey Shops of Hampstead located at 15441 US Hwy 17, as more particularly described in a Deed of Dedication in favor of Pender County of even date wherewith.

2. That it has caused to be installed water distribution lines under and along the road right-of-ways property hereinafter described and referenced;

   See Map Attached as Exhibit A hereto

3. All the work which has been performed in the construction and installation of said water distribution lines described in paragraph 2, above, has been fully paid for an there are now no liens of any kind including any lien for labor or material against the subdivision property which would in any way jeopardize title of Affiant to the property in said subdivision nor are there any legal actions pending against Affiant or any contractor arising out of any work performed in said subdivision or the water lines installed therein which would in any way jeopardize title to the subdivision or the water distribution system located therein.

IN WITNESS WHEREOF, the Affiant has caused this instrument to be duly executed by its authorized officer(s) this 7th day of February, 2013.

Bailey & Fuller Properties, LLC.
By: Bailey and Associates, Inc.
(Managing Member)

By: _____
Christopher W. Bailey, President

STATE OF NORTH CAROLINA

COUNTY OF PENDER

I, a Notary Public of the County and State aforesaid, do hereby certify that Christopher W. Bailey personally came before me this day and acknowledged that he is President of Bailey and Associates, Inc., managing member of Bailey & Fuller Properties, LLC being authorized to do so, executed the foregoing on behalf of the corporation.

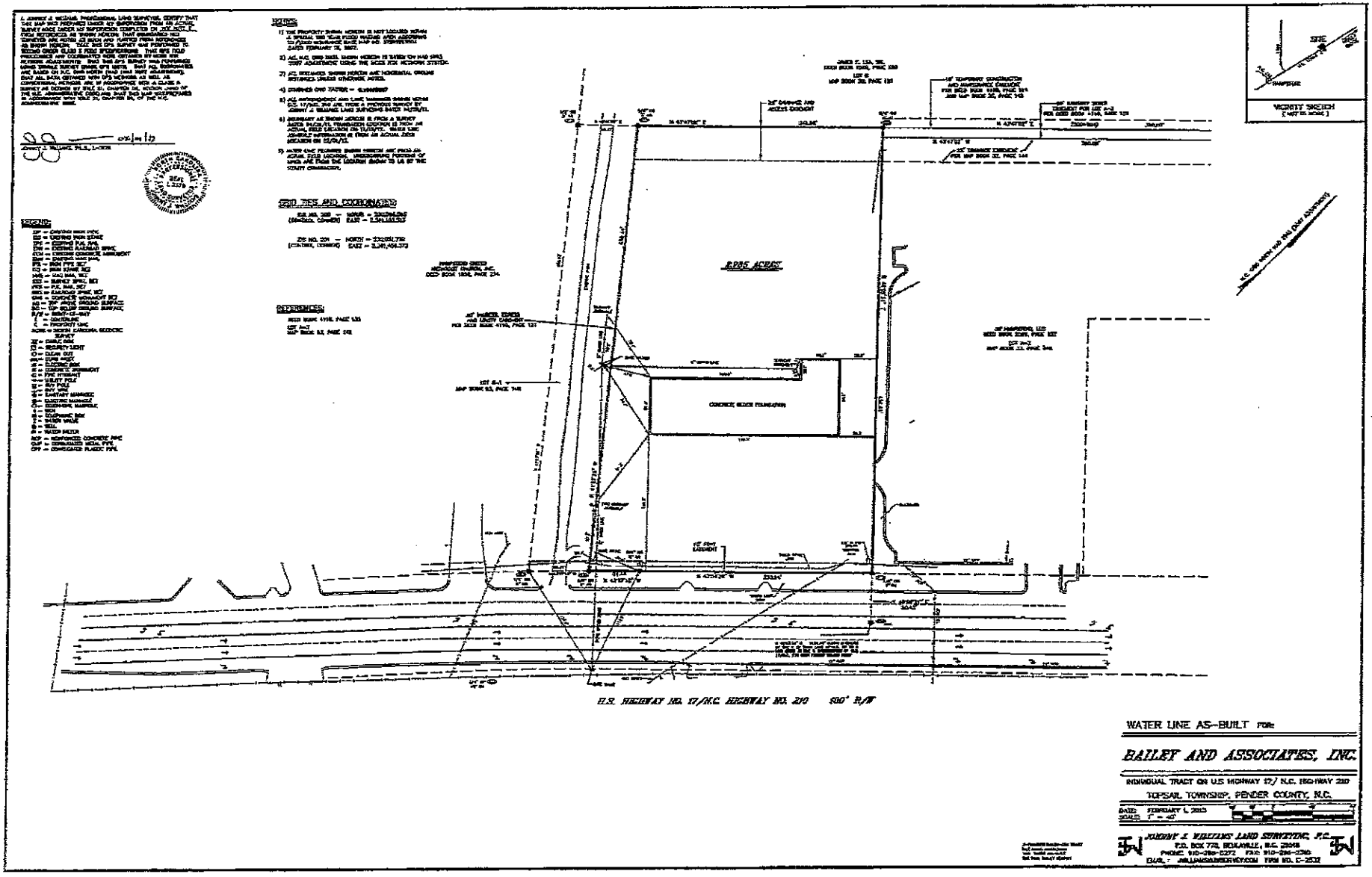
Witness my hand and official seal, this the 7th day of February, 2013.

Wanda T Reynolds
Signature of Notary Public

WANDA T REYNOLDS NOTARY PUBLIC ONSLOW COUNTY, NC
(Notary Seal)

Wanda T Reynolds
Printed or Typed Name of Notary Public

My Commission Expires: 9-3-2017



VICINITY SKETCH
[NOT TO SCALE]
NOTES:
GRID TIES AND COORDINATES:
REFERENCES:
8.985 ACRES
CONCRETE BLOCK FOUNDATION
U.S. HIGHWAY NO. 17/N.C. HIGHWAY NO. 210 100' R/W
WATER LINE AS-BUILT FOR:
BAILEY AND ASSOCIATES, INC.
INDIVIDUAL TRACT ON U.S. HIGHWAY 17/ N.C. HIGHWAY 210
TOPSAIL TOWNSHIP, PENDER COUNTY, N.C.
DATE: FEBRUARY 1, 2013
SCALE: 1" = 40'
JOHNNY J. WILLIAMS LAND SURVEYING, P.C.
P.O. BOX 773, BELLAVILLE, N.C. 28048
PHONE: 910-298-0272 FAX: 910-298-2310
EMAIL: JWILLIAMS@BEERVEY.COM FIRM NO. C-2532

Ex. A