

Pender County Planning and Community Development

805 S. Walker Street
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Burgaw, NC 28425



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AGENDA Pender County Planning Board Tuesday, February 2, 2016 7:00 p.m. Pender County Public Meeting Room 805 S. Walker Street, Burgaw, North Carolina

Call to Order: Chairman Williams

Roll Call: Chairman Williams

Pender County Planning Board Members:

Williams: ___ Fullerton ___ Baker: ___ Edens: ___ McClammy: ___ Nalee: ___

1. Adoption of the Agenda:

2. Adoption of the Minutes: (January 5, 2016)

3. Public Comment:

4. Collector Street Plan: Presentation

(Public Hearings Open)

5. Master Development Plan/Preliminary Plat Revision:

Radiant Investment Inc., applicant and owner, is requesting the approval of a Master Development Plan and Preliminary Plat Revision for the existing planned development known as Crown Pointe. Specifically, the revision includes the rearrangement and location of four (4) single family residential lots and the addition of ±1.51 acres of open space, while maintaining the previously approved one hundred seventy (170) single family residential lots. The total project area is ±134.46 acres. The project is located to the south of Pelican Reef, northeast of Sloop Point Road (SR 1561), north of Bay Harbor residential subdivision, and east of US HWY 17 in Hampstead. The properties may be further identified by Pender County PINs; 4214-89-1147-0000, 4215-60-3220-0000, 4215-60-4139-0000, 4214-59-9801-0000, and 4215-50-5693-0000.

(Public Hearings Closed)

6. Discussion Items:

a. Planning Staff Items:

- i. Zoning Text Amendment Update:

Anyone wishing to address the Pender County Planning Board shall make a request on the "Public Comment" sign-up sheet. Please provide the information requested.

If you wish to speak on *a specific public hearing item*, please sign-in on the appropriate "Public Hearing" sign-up sheet. Speakers will be allowed to speak *prior* to any action/vote taken by the Board.

*A time limit of **two** minutes per speaker or up to **ten** minutes for groups of five or more, with a designated speaker will be imposed.

ii. Collector Street and Comprehensive Land Use Plan Update:

b. Planning Board Members Items:

7. Next Meeting: March 1, 2016, as applicable

8. Adjournment:

**PLANNING STAFF REPORT
MASTER DEVELOPMENT PLAN AND PRELIMINARY PLAT REVISION
CROWN POINTE**

SUMMARY:

Hearing Date: February 2, 2016
Applicant: Radiant Investment Inc.
Property Owner: Radiant Investment Inc.
Case Number: 11120/135-2015

Development Proposal:

Radiant Investment Inc., applicant and owner, is requesting the approval of a Master Development Plan and Preliminary Plat revision for the existing planned development known as Crown Pointe. Specifically, the revision includes the rearrangement and location of four (4) single family residential lots and the addition of ±1.51 acres of open space, while maintaining the previously approved one hundred seventy (170) single family residential lots. The total project area is ±134.46 acres.

Property Record Number, Acreage, and Location:

The subdivision is located to the south of the low density subdivision known as Pelican Reef, northeast of Sloop Point Road (SR 1561), north of Bay Harbor residential subdivision, and east of US HWY 17 in Hampstead. The properties may be further identified by Pender County PINs; 4214-89-1147-0000, 4215-60-3220-0000, 4215-60-4139-0000, 4214-59-9801-0000, and 4215-50-5693-0000.

RECOMMENDATION

Planning Staff is submitting the proposal for Planning Board disposition. This proposal was reviewed and approved under the Pender County Zoning and Subdivision Ordinance, therefore is vested according to Section 3.13.1 of the Pender County Unified Development Ordinance. The request is consistent with the Pender County Zoning and Subdivision Ordinance; therefore Planning Staff recommends the approval of the Master Development Plan and Preliminary Plat revision request as detailed in this report. Any and all future development, as well as, all changes to the Master Development Plan and Preliminary Plat are subject to Planning Board review and approval.

HISTORY

At the January 3, 2006 Planning Board Meeting adjacent property connections were recommended by the Pender County Planning Board to promote inter-connectivity and create adjacent property connections for emergency access between neighboring Pelican Reef and Bay Harbor residential subdivisions, due to controversy, it was tabled. Residents of Pelican Reef and Bay Harbor objected to propose street connections with, High Bluff Drive, East & West Sanderling, and Grist Mill Roads in Pelican Reef as well as Shop Branch Lane in Bay Harbor.

At the February 7, 2006 Planning Board Meeting adjacent property connections were discussed once again with the Assistant Chief Sloop Point Fire Department stating that the connections to adjacent properties are essential for emergency response. The Planning Board approved the Crown Pointe Subdivision (Attachment 1).

Phase I has been previously recorded on Map Book 44 page 111 on May 4, 2007 and later revised to Map Book 48 page 120 on February 4, 2009 (Attachment 2). Phase II Section I has been previously recorded on Map Book 47 page 46 on April 10, 2008 and later revised to Map Book 48 page 121 on February 4, 2009 (Attachment 3).

Preliminary Plat

Master Development Plan and Preliminary Plat approval was issued on April 12, 2006 for one hundred seventy \pm 170 single family residential lots. The revision request is proposed to affect only four (4) lots. Specifically, the revision includes the rearrangement and location of four (4) single family residential lots and the addition of \pm 1.51 acres of open space, while maintaining previously approved one hundred seventy (170) single family residential lots. The total project area is \pm 134.46 acres.

The current request includes the conversion of lots 7, 118, 119, and 139 to open space. Additionally, existing open space located between lots 28 and 29 south of Crown Pointe Drive is requested as buildable lots 171, 172, 173, and 174. The total number of lots will continue to be one hundred seventy (170) however, the lot numbers themselves will extend to one hundred seventy-four (174). The amenity site which was originally planned to be located between lots 28 and 29 is now proposed to be relocated to the open space area located between lots 120 and 114.

Residential

Density

Currently there is no change in the request for the density. The previously approved density was \pm 1.5 units per acre. The current requested revision will only relocate lots and will not be increasing the total number of lots. This is in compliance with the Pender County Zoning Ordinance Section 8.10.

Per Section 8.10 of the Pender County Zoning Ordinance states that maximum land coverage by buildings is 30% and minimum land area for common space is 50% including recreation excluding estuarine waters, wetlands and environmentally sensitive areas. Upon Planning Board approval, the PD classification allows for a total net density of 12 units per acre if both public water and sewer are available.

Lot Requirements

There is no change requested to the previously approved setbacks.

Setback	Distance
Front	25'
Side	10'
Rear	15'
Height	35'

Total Requested Lots

Specifically, the revision includes the rearrangement and location of four (4) single family residential lots and the addition of \pm 1.51 acres of open space, while maintaining the previously approved one hundred seventy (170) single family residential lots.

Open Space

The current requests includes that lots 7, 118, 119, and 139 will be converted to open space. Additionally, existing open space is requested as buildable lots 171, 172, 173, and 174. The amenity site which was originally planned to be located between lots 28 and 29 be relocated to the open space area located between lots 120 and 114.

Per the Pender County Subdivision Ordinance page 29, open space and/or recreation areas equaling 15 percent of the total development area shall be required to be reserved for any minor or major subdivision with any lots of less than three fourths (3/4) acre (32,500 sq. ft.) or any major subdivision with lots less than one acre in size.

Open Space	Acres
Required	±20.17
Previously Approved	±20.19
Proposed Revision	±21.70

The proposed revision request meets the open space requirements set forth in Per the Pender County Subdivision Ordinance page 29.

Roadways

There will be no revisions to the roadway network proposed changes to the already existing private roadways. Currently there are nine (9) existing private roadways identified on the Master Development Plan and Preliminary Plat. The existing private roadways have a forty (40) foot right of way.

Services (Wastewater/Water)

The previous approval was approved with traditional on-site septic which is contingent upon their submitted soil suitability analysis; subject to review and approval by the Pender County Environmental Health Department prior to Final Preliminary Plat approval. Water services reviewed and approved by Pender County Utilities.

Environmental Concerns

There are ±1.06 acres of wetlands on the subject property. Any development within these areas may be subject to the permit requirements of Section 404 of the Clean Water Act. A Jurisdictional Determination of the Wetlands has been conducted by the Army Corps of Engineers and submitted under the original approval.

There is a portion of the subject property that is located within the "Zone AE" Special Flood Hazard Area, according to the 2007 Flood Insurance Rate Maps (FIRMs), Map Number 3720421400K, and Panel Number 4214, 4215, and 4224.

After a preliminary analysis, it appears there are CAMA Areas of Environmental Concern located on the project site. CAMA Areas of Environmental Concern are tidal and/or navigable waters within Pender County are classified as Public Trust Area up to the normal high water line or normal water level and are

subject to the CAMA. The Public Trust Shoreline AEC extends 30' landward of the normal high water line or normal water level.

All applicable state and federal agency permits including a Stormwater Management Permit, and Erosion Control Plan, wetlands impact permits, and NCDOT Driveway Permit will be required prior to the approval of the Final Preliminary Plat for each phase. Any revision or amendments to existing permits will be required before the Master Development Plan and Preliminary Plat can be finalized.

Technical Review Committee (TRC) Responses:

On Tuesday January 11, 2016 the Master Development Plan and Preliminary Plat revision was sent to the Pender County Technical Review Committee. This revision is vested under the under the Pender County Zoning and Subdivision Ordinance. The responses collected can be viewed in Attachment 4.

EVALUATION

A) Public Notifications: Public Notice of the proposal for map change has been advertised in the *Pender-Topsail Post and Voice* and a public notification sign has been placed on the property.

B) Existing Zoning in Area: The properties are located within a PD, Planned Development zoning district. Per Section 17.2.A of the Pender County Zoning Ordinance where Planned Developments are permitted, regulations adopted for such unified developments are intended to accomplish the purposes of zoning and subdivision regulations, and other applicable regulations, to the same degree as in cases in which those regulations are intended to control development on a lot-by-lot rather than unified basis. The PD district encourages progressive land planning and design concepts. The properties to the north are zoned PD Planned Development zoning district and the properties to the south and west are zoned RP, Residential Performance zoning district.

C) Existing Land Use in Area: This proposal is located within the area known as Crown Pointe, west of the property is the existing Topsail Lake Community. The properties immediately north are low density residential subdivision known as, Pelican Reef. Along the immediate southern boundary is a low density residential subdivision known as Bay Harbor.

D) CAMA Land Use Plan:

a. 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 land industrial or job creating uses and a range of residential land uses and housing types. It is focused on the Rocky Point area and the Highway 17 Corridor. This area is planned for high net density for residential development. This density is dependent upon the types and levels of services that are available.

STAFF RECOMMENDATION

This proposal was reviewed and approved under the Pender County Zoning and Subdivision Ordinance, therefore is vested according to Section 3.13.1 of the Pender County Unified Development Ordinance.

Planning Staff is submitting the proposal for Planning Board disposition. The request is consistent with Pender County Zoning, Subdivision Ordinance and the CAMA Land Use Plan. Planning Staff recommends the approval of the Master Development and Plan Preliminary Plat request as detailed in the report. Any and all future development, or changes to the Master Development Plan and Preliminary Plat are subject to the Planning Board review and approval.

BOARD ACTION FOR PHASE III PRELIMINARY PLAT:

Motion: _____ **Seconded:** _____

Approved: ___ **Denied:** ___ **Unanimous:** ___

Williams: ___ **Fullerton:** ___ **Baker:** ___ **Edens:** ___ **McClammy:** ___ **Nalee:** ___

APPLICATION FOR SUBDIVISION

THIS SECTION FOR OFFICE USE

Application No.	PP Revision	Date	1-14-16
Application Fee	\$ 250	Receipt No.	TRC-000078-21-01-2016
Master Plan Hearing Date	2-2-2016	Preliminary Plat Hearing Date	2-2-2016

SECTION 1: APPLICANT INFORMATION

Applicant's Name:	RADIANT INVESTMENT INC.	Owner's Name:	SAME
Applicant's Address:	2406 N. 23 RD STREET	Owner's Address:	SAME
City, State, & Zip	WILMINGTON, NC 28401	City, State, & Zip	SAME
Phone Number:	910 762-1875	Phone Number:	SAME

Legal relationship of applicant to land owner: SAME

SECTION 2: PROJECT INFORMATION

Preliminary Plat	<input checked="" type="checkbox"/> Residential <small>RP, PD, RM, MH District</small>	<input type="checkbox"/> Mixed Use <small>PD</small>	<input type="checkbox"/> Exempt
Subdivision Type	<input type="checkbox"/> Major (11 lots or more)	<input type="checkbox"/> Minor (10 lots or less)	<input type="checkbox"/> Other
Property Identification Number (PIN):	4214-88-9816-0000 4215-40-6570-0000	Total property acreage:	134.46
Zoning Classification:	PD	Acreage to be disturbed:	N/A

Additional Information:

MASTER DEVELOPMENT PLAN PRELIMINARY PLAT REVISION

SECTION 3: SIGNATURES

Applicant's Signature	<u>Nancy L. Kealy</u>	Date:	1/13/16
Owner's Signature	<u>Nancy L. Kealy</u>	Date:	1/13/16

NOTICE TO APPLICANT

1. Applicant or agent authorized in writing must attend the public hearing.
2. 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.
3. All fees are non-refundable
4. A complete application packet must be submitted prior to the deadline in order to be placed on the next Planning Board Agenda

Office Use Only

<input type="checkbox"/>	Subdivision Fees: \$500 + \$10/lot-unit for the first 100 lots/units; \$5.00/lot-unit thereafter	Total Fee Calculation: \$ <u>250 revision</u>
Attachments Included with Application: (Please include # of copies)		
CD /other digital version	<input type="checkbox"/> Y <input type="checkbox"/> N	Plan Sets # of large # of 11X17
Other documents/Reports	<input type="checkbox"/> Y <input type="checkbox"/> N	
Payment Method:	Cash: <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa
		Check: <input checked="" type="checkbox"/> Check # <u>5065</u>
Application received by:	<u>Ron Meredith</u>	Date: 1-14-16
Application completeness approved by:	<u>Ron Meredith</u>	Date: 1-14-16
Date scheduled for public hearing:	<u>2-2-16</u>	

APPLICATION FOR MASTER DEVELOPMENT PLAN

THIS SECTION FOR OFFICE USE			
Application No.	MDP <i>Revision</i>	Date	12-30-15
Application Fee	\$ 250 (<i>revision</i>)	Receipt No.	TRC-000074-30-12-2015
Pre-Application Conference	11/12/2015	Hearing Date	2-2-15
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	RADIANT INVESTMENT INC.	Owner's Name:	SAME
Applicant's Address:	2406 N. 23 RD STREET	Owner's Address:	SAME
City, State, & Zip	WILMINGTON, NC 28401	City, State, & Zip	SAME
Phone Number:	910-762-1875	Phone Number:	SAME
Legal relationship of applicant to land owner:			
SECTION 2: PROJECT INFORMATION			
Type of Master Development Plan	<input checked="" type="checkbox"/> Residential <i>RP, PD, RM MH District</i>	<input type="checkbox"/> Commercial <i>GB, OI, IT, GI District</i>	<input type="checkbox"/> Mixed Use <i>PD</i>
Property Identification Number (PIN):	4214-88-7816-0000 4215-40-6576-0000	Total property acreage:	134.46
Zoning Classification:	PD	Acreage to be disturbed:	N/A.
Project Address:	CROWN POINT DRIVE		
Description of Project Location:	Sloop Point Road .4 miles from Intersection with Highway 17.		
Describe activities to be undertaken on project site:	This is a previously approved master plan that has been partially developed. We are amending the master plan & Preliminary Plat to relocate the Amenity Center.		
SECTION 3: SIGNATURES			
Applicant's Signature	<i>Ray L. Kraly</i>	Date:	12/21/15
Owner's Signature	<i>Ray L. Kraly</i>	Date:	12/21/15

NOTICE TO APPLICANT

1. Applicant or agent authorized in writing must attend the public hearing.
2. 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.
3. All fees are non-refundable
4. A complete application packet must be submitted prior to the deadline in order to be placed on the next Planning Board Agenda

Office Use Only

MDP Fees: (\$500.00 plus \$10/acre for the first 100 acres \$5/acre thereafter) Total Fee Calculation: \$ 250 (revision)

Attachments Included with Application: (Please include # of copies)

CD /other digital version	<input type="checkbox"/> Y <input type="checkbox"/> N	Plan Sets	# of large	# of 11X17	Other documents/Reports	<input type="checkbox"/> Y <input type="checkbox"/> N
Payment Method:	Cash: <input type="checkbox"/> \$ _____		Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		Check: <input checked="" type="checkbox"/> Check # <u>5049</u>	
Application received by:	<u>Ronald G. [Signature]</u>				Date: <u>12-30-15</u>	
Application completeness approved by:	<u>Ronald G. [Signature]</u>				Date: <u>12-30-15</u>	
Date scheduled for public hearing:	<u>2-2-15</u>					

MASTER DEVELOPMENT PLAN CHECKLIST

✓	Signed Application Form (Both Applicant and Owner)
✓	Application fee
✓	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)
✓	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
✓	Project Narrative--Written description of the project (<u>max of 3 pages</u>) including the following: <ul style="list-style-type: none"> <input type="checkbox"/> Location of the project and type of access to project site <input type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. <input type="checkbox"/> Description of all construction activities to be undertaken on the site <input type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers <input type="checkbox"/> List of all state and federal permits that will be required for the project <input type="checkbox"/> Describe any potential impacts the project will have on the community or adjacent properties such as traffic, noise, etc. and explain efforts to mitigate these impacts (<u>this item must be addressed by the applicant</u>). The applicant may also wish to describe any positive benefits the project will provide for the community &/or neighbors of the project.

Master Development Plan Contents

All MDP's shall be prepared in accordance with the following specifications:

✓	The scale shall be one inch equals 100 feet or larger (the ratio of feet to inches shall be no more than one hundred feet to one inch) or at a scale acceptable to the Director. The scale shall be sufficient so that all features are discernible.
✓	No sheet shall be smaller than 24"x36" in size unless approved by the Administrator. If the MDP is prepared on more than one sheet, match lines shall clearly indicate where the sheets join.
✓	North arrow, a scale of 1:100 or larger and a legend describing all symbols.
✓	A boundary survey of the entire property related to true meridian & certified by a registered surveyor with all dimensions in ft & decimals of ft. A vicinity map at a suitable scale shall be provided showing the location of the project along with the location of all existing or approved public roads, streets or rights-of-way within 2,000 ft of the boundaries of the project.
✓	The total area of the property shall be specified.
✓	The topography shall be shown at 2 foot contour intervals.
✓	The title of the proposed project; the date, month, year the plan was prepared or revised; the name of the applicant(s), owner(s) and contract owner(s); and the names of the individuals or firms preparing the plan shall be clearly specified.
✓	A schedule of phases, with the approximate location of phase boundaries & the order in which the phases are to be developed, shall be provided.
✓	The use of all adjoining properties by zoning, parcel identification number (PIN) and current property owner(s).



M I H A L Y
L A N D D E S I G N
P L A N N I N G + L A N D S C A P E A R C H I T E C T U R E

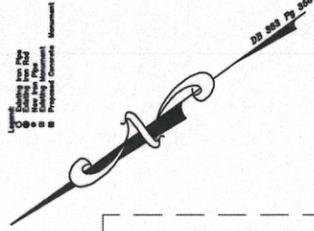
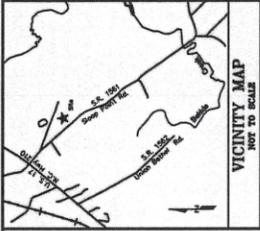
Date: December 18, 2015

Crown Pointe Subdivision – Revised Master Plan / Preliminary Plat

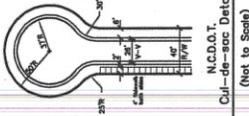
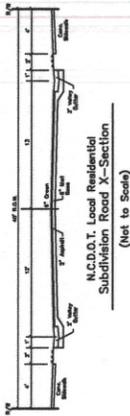
Project Narrative:

We are submitting a Master Plan Amendment to the Crown Pointe Subdivision that was originally approved back in February of 2006. The project has been partially developed in accordance with the original design. Our reason to amend the master plan is so we can re-locate the proposed amenity area to what we feel is a more suitable site that is adjacent to previously approved open space and is along a portion of roadway that has already been constructed. Lots 118 and 119 from the previously approved plan have been removed and that area is now being used for the amenity site. We have also removed lots 7 and 139 to allow for additional open space to meet previously approved open space figures. The previous amenity site has been re-plated to include (4) lots which are now labeled lots 171, 172, 173 & 174 as well as open space.

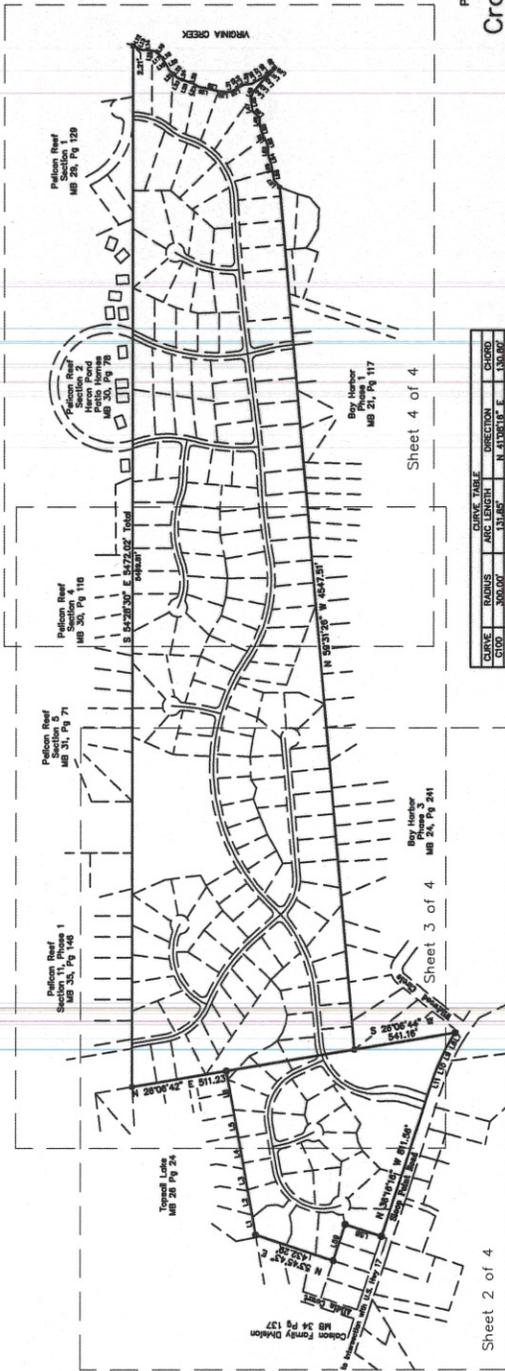
The original proposal had 170 lots and 21.62 acres of open space. As revised, the revised plan proposes 170 lots and 21.70 acres of open space. Overall we feel that proposed amendment does not adversely affect the previously approved plan and will enable the developer to proceed swiftly with the design and construction of the amenity site.



CONTRACT OF SUBDIVISION MAP APPROVAL
 Approved by the Pender County Planning Board for a portion of C2 plans
 Director of Planning Department



LINE	BEARING	LENGTH
L1	S 84°50'01" E	124.07
L2	S 84°52'56" E	110.85
L3	S 84°51'36" E	110.85
L4	S 84°51'36" E	110.85
L5	S 84°52'56" E	110.85
L6	S 84°50'01" E	124.07
L7	N 84°52'56" W	110.85
L8	N 84°51'36" W	110.85
L9	N 84°50'01" W	124.07
L10	N 84°51'36" W	110.85
L11	N 84°52'56" W	110.85
L12	S 84°52'56" W	110.85
L13	S 84°51'36" W	110.85
L14	S 84°50'01" W	124.07
L15	S 84°51'36" W	110.85
L16	S 84°52'56" W	110.85
L17	S 84°50'01" W	124.07
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L21	S 84°51'36" W	110.85
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L24	S 84°51'36" W	110.85
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L103	S 84°52'56" W	110.85
L104	S 84°50'01" W	124.07
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L106	S 84°52'56" W	110.85
L107	S 84°50'01" W	124.07
L108	S 84°51'36" W	110.85
L109	S 84°52'56" W	110.85
L110	S 84°50'01" W	124.07
L111	S 84°51'36" W	110.85
L112	S 84°52'56" W	110.85



CURVE	RADIUS	ARC LENGTH	DIRECTION	CHORD
G100	300.00'	131.85'	N 11°W 1/2 E	130.90'
G101	300.00'	302.41'	S 83°32'56" W	307.30'
G102	300.00'	613.73'	S 72°27'17" E	485.95'
G103	750.00'	67.75'	N 81°34'36" E	67.75'
G104	750.00'	67.75'	N 81°34'36" E	67.75'
G105	1000.00'	214.50'	N 82°28'18" E	214.50'
G106	1000.00'	214.50'	N 82°28'18" E	214.50'
G107	750.00'	67.75'	S 82°28'18" E	67.75'
G108	750.00'	67.75'	S 82°28'18" E	67.75'
G109	1000.00'	214.50'	S 82°28'18" E	214.50'
G110	1000.00'	214.50'	S 82°28'18" E	214.50'
G111	1000.00'	214.50'	S 82°28'18" E	214.50'
G112	1000.00'	214.50'	S 82°28'18" E	214.50'
G113	350.00'	371.65'	S 82°28'18" E	354.24'
G114	350.00'	371.65'	S 82°28'18" E	371.65'
G115	350.00'	371.65'	S 82°28'18" E	371.65'
G116	350.00'	371.65'	S 82°28'18" E	371.65'
G117	350.00'	371.65'	S 82°28'18" E	371.65'
G118	350.00'	371.65'	S 82°28'18" E	371.65'
G119	350.00'	371.65'	S 82°28'18" E	371.65'
G120	350.00'	371.65'	S 82°28'18" E	371.65'
G121	350.00'	371.65'	S 82°28'18" E	371.65'
G122	350.00'	371.65'	S 82°28'18" E	371.65'
G123	350.00'	371.65'	S 82°28'18" E	371.65'
G124	350.00'	371.65'	S 82°28'18" E	371.65'
G125	350.00'	371.65'	S 82°28'18" E	371.65'
G126	350.00'	371.65'	S 82°28'18" E	371.65'
G127	350.00'	371.65'	S 82°28'18" E	371.65'
G128	350.00'	371.65'	S 82°28'18" E	371.65'
G129	350.00'	371.65'	S 82°28'18" E	371.65'
G130	350.00'	371.65'	S 82°28'18" E	371.65'
G131	350.00'	371.65'	S 82°28'18" E	371.65'
G132	350.00'	371.65'	S 82°28'18" E	371.65'
G133	350.00'	371.65'	S 82°28'18" E	371.65'
G134	350.00'	371.65'	S 82°28'18" E	371.65'

PRELIMINARY PLAT
 of
Crown Pointe
 Topsail Township, Pender County
 North Carolina
 Revised: January 21, 2016
 March 27, 2006
 BAR SCALE 1"=300'

Developed By:
 Rodison Properties, Inc.
 and Colson Properties, L.L.C.
 2406 N 23rd Street
 Wilmington, N.C. 28401
 (910) 231-2874

Preliminary
 Not for recordation
 Comprehensive, or Other
 SHEET 1 OF 4

Talbot Land Surveying, P.C.
 18747 U.S. Hwy 17, Suite 118
 Hampstead, North Carolina 28443
 Phone: (910) 470-4821

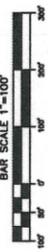
- NOTES:
- 1.) Boundary referenced to Grid Sheet 203 Page 204 and Grid Sheet 2033 Page 190. Boundary information is shown by Talbot and Surveying dated November 2005, 2006 by County land Surveying and dated November 2005, 2006 by County land Surveying and dated November 2005, 2006 by County land Surveying.
 - 2.) The boundary of land to be subdivided contains 13,448 Acres.
 - 3.) There are 170 lots in the proposed subdivision.
 - 4.) The total lot area is 84,237 Acres.
 - 5.) The proposed subdivision contains 170 lots with a total area of 84,237 Acres.
 - 6.) The total area of drainage easements is 6,827 Acres.
 - 7.) The proposed subdivision contains 170 lots with a total area of 84,237 Acres.
 - 8.) The total area of drainage easements is 6,827 Acres.
 - 9.) The proposed subdivision contains 170 lots with a total area of 84,237 Acres.
 - 10.) The total area of drainage easements is 6,827 Acres.
 - 11.) The proposed subdivision contains 170 lots with a total area of 84,237 Acres.
 - 12.) The total area of drainage easements is 6,827 Acres.
 - 13.) The proposed subdivision contains 170 lots with a total area of 84,237 Acres.
 - 14.) The total area of drainage easements is 6,827 Acres.
 - 15.) The proposed subdivision contains 170 lots with a total area of 84,237 Acres.
 - 16.) The total area of drainage easements is 6,827 Acres.
 - 17.) The proposed subdivision contains 170 lots with a total area of 84,237 Acres.
 - 18.) The total area of drainage easements is 6,827 Acres.
 - 19.) The proposed subdivision contains 170 lots with a total area of 84,237 Acres.
 - 20.) The total area of drainage easements is 6,827 Acres.
 - 21.) The proposed subdivision contains 170 lots with a total area of 84,237 Acres.
 - 22.) The total area of drainage easements is 6,827 Acres.
 - 23.) The proposed subdivision contains 170 lots with a total area of 84,237 Acres.
 - 24.) The total area of drainage easements is 6,827 Acres.

- NOTES:**
- 1) Curved, Check and Litter Checks are located on Sheet 1 of 4.
 - 2) All roads and easements are shown on Sheet 1 of 4.



PRELIMINARY PLAT
of
Crown Pointe
 Topsoil Township, Pender County
 North Carolina

Revised: January 21, 2016
 March 27, 2008



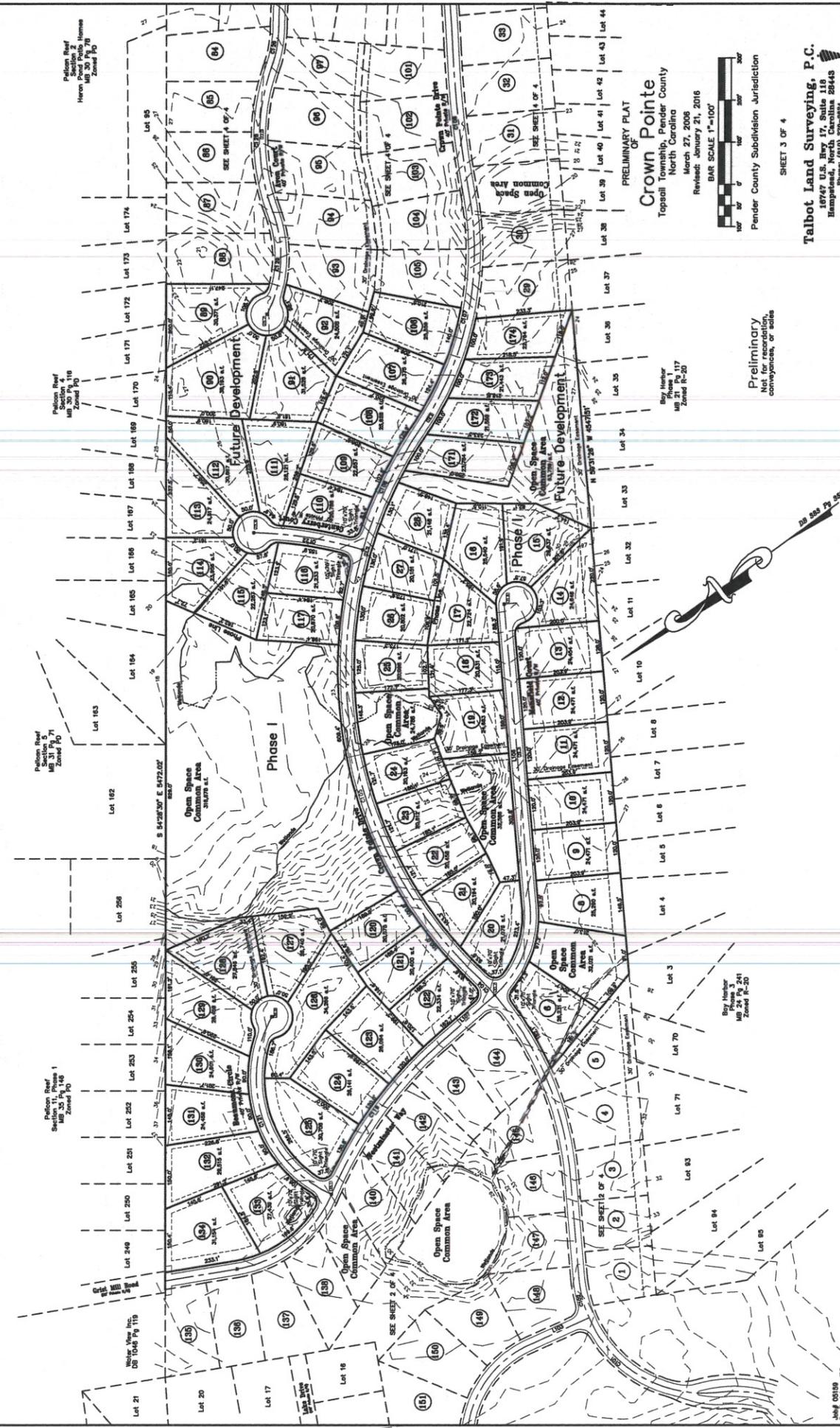
Pender County Subdivision Jurisdiction
 Preliminary
 Not for conveyance, or sales
 SHEET 2 OF 4

Talbot Land Surveying, P.C.
 18747 U.S. Hwy. 17, Suite 101
 Hampstead, North Carolina 28443
 Phone: (810) 870-0824

- Existing lot lines
- Existing easements
- Existing structures
- Proposed street right-of-way
- Proposed street right-of-way

Legend:
 --- Existing Topography
 --- Existing Right-of-Way
 --- Existing Easements
 --- Proposed Common Elements
 --- Proposed Street Right-of-Way

NOTES:
 1.) Curve Objects and Line Objects are located on Sheet 1 of 4.
 2.) All markers and certifications are shown on Sheet 1 of 4.



PRELIMINARY PLAT
 OF
Crown Pointe
 Topsoil Township, Pender County
 North Carolina
 March 27, 2006
 Revised: January 21, 2016
 BAR SCALE 1"=100'

SHEET 3 OF 4

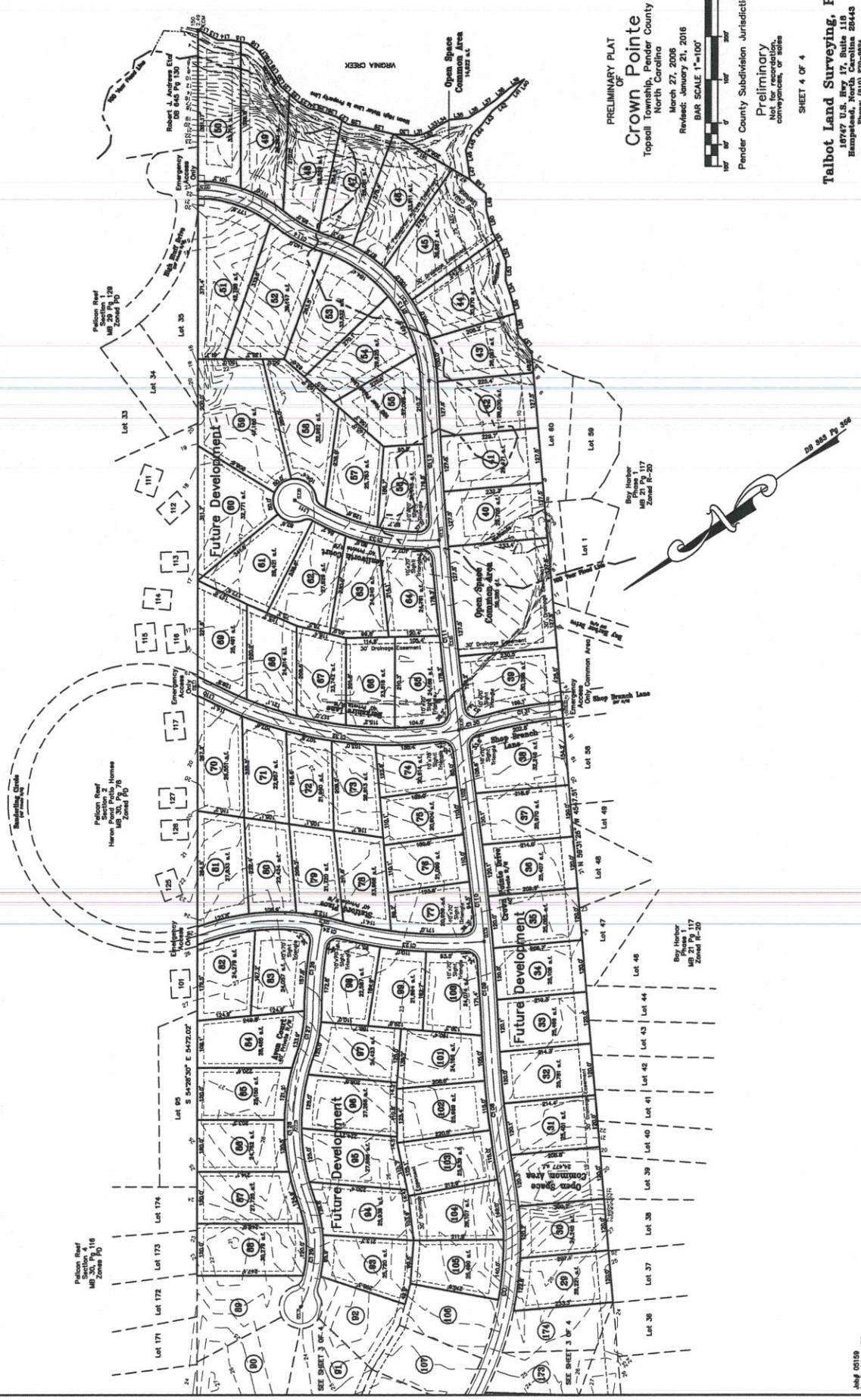
Talbot Land Surveying, P.C.
 10647 U.S. Hwy 17, Suite 118
 Hampden, Virginia 23040
 Phone: (810) 870-8888

Preliminary
 Not for recordation,
 construction, or sales

Job # 03109
 Date: 03/27/06
 Drawing Name: 03109p3.dwg

NOTES:
 1.) Open Checks and Line Checks are located on Sheet 1 of 4.
 2.) All notes and certifications are shown on Sheet 1 of 4.

Legend:
 Existing Line Pipe
 Existing Common Area
 Existing Subdivision
 Proposed Street Right



PRELIMINARY PLAT
 OF
Crown Point
 Topsail Township, Pender County
 North Carolina

March 27, 2008
 Revised: January 21, 2016



Pender County Subdivision Jurisdiction
 Preliminary
 Not for recordation,
 conveyance, or sales
 SHEET 4 OF 4

Talbot Land Surveying, P.C.
 18747 U.S. Hwy 17, Suite 118
 Hampstead, NC 28443
 Phone: (810) 270-4884

July 01/09 85
 Drawing Name: 00109new-6r4.dwg

Attachment 1

Master Plan & Preliminary Review For PB Submission-Final-Continued
Crown Pointe FNA Tidewater Shores
Staff Review PB Meet Feb. 7, 2006

STAFF REVIEW FOR PLANNING BOARD APPROVAL CROWN POINTE FKA TIDE WATER SHORES, MASTER PLAN / PRELIMINARY PLAT

BACKGROUND:

At the January 3, 2006 Planning Board Meeting residents of Pelican Reef and Bay Harbor objected to proposed street connections with High Bluff Drive and East & West Sanderling and Grist Mill Roads in Pelican Reef and Shop Branch Lane in Bay Harbor. Connections were recommended by Planning to ensure community inter-connectivity and to provide emergency vehicle access between three subdivisions. Testimony during the public hearing revealed that both communities opposed the "connectivity" for the following reasons: Pelican Reef residents said their roads cannot sustain additional traffic and it is a gated community where traffic would need to have twenty-four hour access through a gated entrance. Bay Harbor residents testified that its plat's interior roads are dirt/gravel that can not sustain daily traffic unless the developer of Crown Pointe paves the roads. Testimony revealed that the named Pelican Reef roads were not constructed to the property lines. And, Grist Mill was not constructed to within 100 feet or so from the property line. Subsequent to that meeting, Planning inspected the Pelican Reef roads in question. Photos in your packages confirm that the stub roads were never constructed. Further concerns raised by the Planning Board included multiple driveways for ingress and egress to Sloop Point Road and the interior road network.

Planning Board member, Mr. Leslie Green, made a motion to table the hearing for thirty days in order to address these issues. Mr. Rick Garret seconded the motion and it carried unanimously.

DEVELOPER 'S AMMENDED PLAN:

The Planning Board packet for this case includes a revised Master Plan/Preliminary Plat for Crown Pointe. This plan includes constructing interior Roads East Sanderling and Crown Pointe Drive to the property line and installing remote accessible Emergency Access Gates only at these two locations for fire, ambulance and police response. Pender County accepted the Pelican Reef Streets construction years ago and the developer can not be responsible for additional infrastructure improvements of private roads. West Whitehorn Way (formerly Grist Mill Road) and Stonefield Lane (formerly West Sanderling Circle) have been redesigned to be cul-de-sacs.

All interior roads have been laid out using generally accepted traffic calming techniques with sufficient site lines for visibility and to encourage the slowing of vehicular traffic. The driveway entrance remains as one (Crown Pointe Road) connecting the subdivision to Sloop Point Road. While two points of access could have been designed with Six Gables Lane continued to connect with Sloop Point Road, the result would have been six subdivision driveways emptying onto Sloop Point Road over approximately 1000 feet of road with an average of less than 200 feet separation. This was not considered good practice. Planning reviewed NCDOT Average Annual Daily Trip (AADT) counts at Sloop Point Road just north of Sloop Point Loop Road for the years 2002 and 2004. The map reports indicate an AADT 2002 count of 1100 vehicles and a 2004 count of 1200. Prior development limits options available to the interior lots that form this subdivision.

The developer is also proposing to preserve a heavily treed line adjacent to Pelican Reef that will serve as a natural buffer that will be protected through plat covenants and restrictions. A second buffer yet

to be designed of natural and man made elements will also be included along the property line with Bay Harbor.

STAFF RECOMMENDATION FEBRUARY 7, 2006:

In addition to staff recommendations made January 3, Planning is recommending the following mandatory provisions:

- C1. That the East Sanderling and Crown Pointe stubs include constructed "T" turns on both sides of the roads that are sufficient to turn buses and emergency equipment;
- C2. That the developer submit, in addition to other ordinance requirements, a Landscape Buffer plan in compliance with Section 14, Landscape Buffers of the Pender County Zoning Ordinance as a condition of final Preliminary Plat approval incorporating the proposals above;
- C3. Design and specifications of the emergency access gates to be reviewed and approved by Pender County Sherriff's and Fire Departments prior to final preliminary Plat approval.

DEVELOPER'S ORIGINAL PROPOSAL:

The applicant is requesting approval for the Master Plan and Preliminary Plat of Crown Pointe FKA Tide Water Shores Subdivision. The applicant is proposing a total of 171 residential building lots on 134.46 acres off of Sloop Point Road that is approximately .5 mile from Hwy 17. This plat is being planned as a single phase. Individual well and septic are proposed to initially serve the development. Pender County is presently constructing a community water supply line that will, in the near future, pass in front of the proposed entrance. As part of the plat's infrastructure, the Developer will install water lines and taps for each building site. Public water will enhance fire safety and provide some long term relief to the ground water recharge system. With an on site septic system and public water, a maximum of 2.9 dwelling units per acre (15,000 square foot minimum lot size) may be permitted. The lot range in area from 17,000 + to nearly 40,000 square feet size with most running between 20,000 and 30,000 square feet. Net density is approximately 1.5 units per acre. Upon Planning Board approval, the PD classification allows for a total net density of 12 units per acre if both public water and sewer are available. This proposed development contains approximately 20.19 acres of open space where 15% or 20.17 acres is required. The 20.19 acres of open space will be dedicated and reserved for the residents of the development and ownership transferred to the Homeowners Association. House lots will comprise 100.54 acres with 13.11 acres in road easements. Drainage easements will include 6.07 acres

A Soil Suitability Report has been submitted that indicates possible areas of water tables within 12 inches of the surface. Improvement and Construction Permits issued in the same immediate area have confirmed more satisfactory soils. The Developer plans on-site septic systems for all suitable lots. In those cases where on-site drain fields are not permitted, community drain fields located in common areas are planned. Lots (if any) found to be unsuitable for septic systems will be labeled as unbuildable on the final plat.

The Developer is proposing private roads on a 40 foot right-of-way with 24 foot paved surface and 2 foot valley gutters and 50 foot cul-de-sacs with travel radii of 37 feet. Sidewalks on both sides of the roads will be located inside the easement lines. Care will be given to preserve existing species trees

and shrubbery wherever possible. None of the planned cul-de-sacs exceeds 1,000 feet. Crown Pointe Drive will intersect with High Bluff Drive. Shop Branch Lane in Bay Harbor will connect to East Sanderling Circle, an interior road, with East Sanderling Circle in Pelican Reef.

STAFF RECOMMENDATION:

Planning Staff is submitting the preliminary plat layout for Planning Board approval. Given that the Planning Board will also review all subsequent final plats for approval, Planning Staff recommends approval. Final Preliminary Approval will not be effective until all requirements of preliminary submission as prescribed in the subdivision ordinance are complete, the submission shows compliance with all subdivision requirements and the Director has signed a copy of the Preliminary Plat. The approval is also subject to the following conditions:

Mandatory Items:

1. All requirements of the Pender County Subdivision Ordinance for Preliminary Plats, including items 1 thru 13 pages 22, 23 & 24 have been submitted to and approved by the Director.
2. The submission and plat complies with all requirements of the Pender County Subdivision Ordinance, Zoning Ordinance, other Pender County Ordinances and State Regulations.
3. The following item will be required for any development with any lot sizes less than 20,000 sq. ft. or net densities of 2.1 units per acre or less:

Public Water System

- (1) Construction plans sealed by a registered engineer, as approved by DENR and Pender County Utilities Department;
- (2) Acceptance of operation and maintenance of the system by Pender County;
- (3) Certification that the system will be dedicated to Pender County.
4. Off-site septic drain fields require construction plans sealed by a registered engineer, as approved by DENR. Covenants and Restrictions that ensure ownership, operation, maintenance and replacement of drain fields and system lines located on common open space held in trust by the duly established Homeowner's Association as established under the provisions of this ordinance.
5. The applicant shall submit notarized documentation from the Pelican Reef and Bay Harbor Homeowners Association approving the connection to existing private streets.
6. No construction traffic may utilize existing private streets in the Pelican Reef and Bay Harbor subdivisions.
7. Location of existing monuments and control points must be shown on the property.
8. The plat should clearly designate **Wetlands, Areas of Environmental Concern, CAMA Setbacks, Flood Prone Areas** (as shown on current FEMA maps), marshes, swamps, ponds, lakes, streams, and any other natural features on or affecting the site. If no Wetlands, AEC's or Flood Prone Areas exist on the site a note to that effect shall appear on the plat.
9. The plat must clearly designate Hydric Soils (Bohicket Silty Clay Loam, Carteret Fine Sand, Chewacla Loam, Croatan Muck, Dorovan Muck and Muckalee Loam) as shown on the NRCS county soil survey maps or from a Soil Suitability Analysis prepared by a licensed Soil Scientist. If no hydric soils exist on the site a note to that effect shall appear on the plat.
10. Drainage easements shall be clearly designated.

11. The plat must indicate the location and dimensions of existing and proposed right-of-ways & easements for utility, drainage or other facilities or structures. Easements with a width of 20' from center or 10' from the edge of all drainage facilities included on required drainage plans shall be shown for any such facilities not in public street right-of-way.
12. Anticipated typical architectural housing styles should be submitted.
13. Sketch plans for refuse disposal such as compactors and waste disposal dumpsters must be submitted.
14. A Construction Authorization Permit must be issued for each lot not considered suitable for traditional onsite septic as shown on the applicant's soil suitability analysis.
15. A detailed description of any proposed off-site septic drainage fields and system operation, maintenance and replacement procedures and processes to serve all lots that are not suitable for traditional on site drain fields, along with a map showing the proposed location of the off site components of the system, including lines must be submitted.
16. The location of street signs should be provided for all proposed streets.
17. 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.
18. An approved NCDOT driveway permit for connection to Sloop Point Road shall be submitted.
19. A drainage plan that will include all portions of the development shall be submitted. This plan shall be prepared and sealed by a registered surveyor or engineer. The plan and facilities shall provide for a drainage system for these areas that will accommodate the ten-year storm event without flooding or substantial ponding of water in the areas included in the plan. The plan must also accommodate any discharge from properties in upland portions of the drainage basin that flows through the property for the same storm event for the type development for which that property is zoned. The boundary of any drainage area on a portion of the site and/or upland from the site and drainage areas between storm water discharge points from the site to the recipient perennial stream shall be shown on a map (copy of 7.5 min. USGS Quad or similar map). Any drainage facility receiving storm water discharge from the development shall have the capacity to carry the anticipated storm water flow from areas that discharge through them for the 10 year storm event from the point of discharge at the development to the recipient perennial stream without overflowing their banks. The location, size and/or capacity of all structures included in the drainage system and receiving discharge from the development to the recipient perennial stream shall be shown on the plan and calculations used in designing the drainage system shall be submitted in a legible format. This plan may be included in the street and drainage plan, storm water management plan or on the preliminary plat, as long as the design professional certifies that the specific drainage plan submitted complies with these requirements and the information required is shown or submitted as noted.
20. Approval from the Division of Coastal Management for all areas of the development located in an Area of Environmental Concern with a copy to Pender County Planning.
21. Sediment & Erosion Control Plans as approved by Land Quality (with letter of approval) with a copy to Pender County planning.
22. Storm water management plan as approved by the Water Quality Division with a letter of approval sent to Pender County Planning.
23. Approval of Wetlands Delineation by USACE with a copy provided to Pender County Planning.
24. Wetlands fill authorization or permit if construction or fill in wetlands is involved with a copy to Pender County Planning.
25. Subdivision roads will be named and approved by an EMC representative within 30 days of Planning Board approval and prior to Planning department approval of the Preliminary Plan.

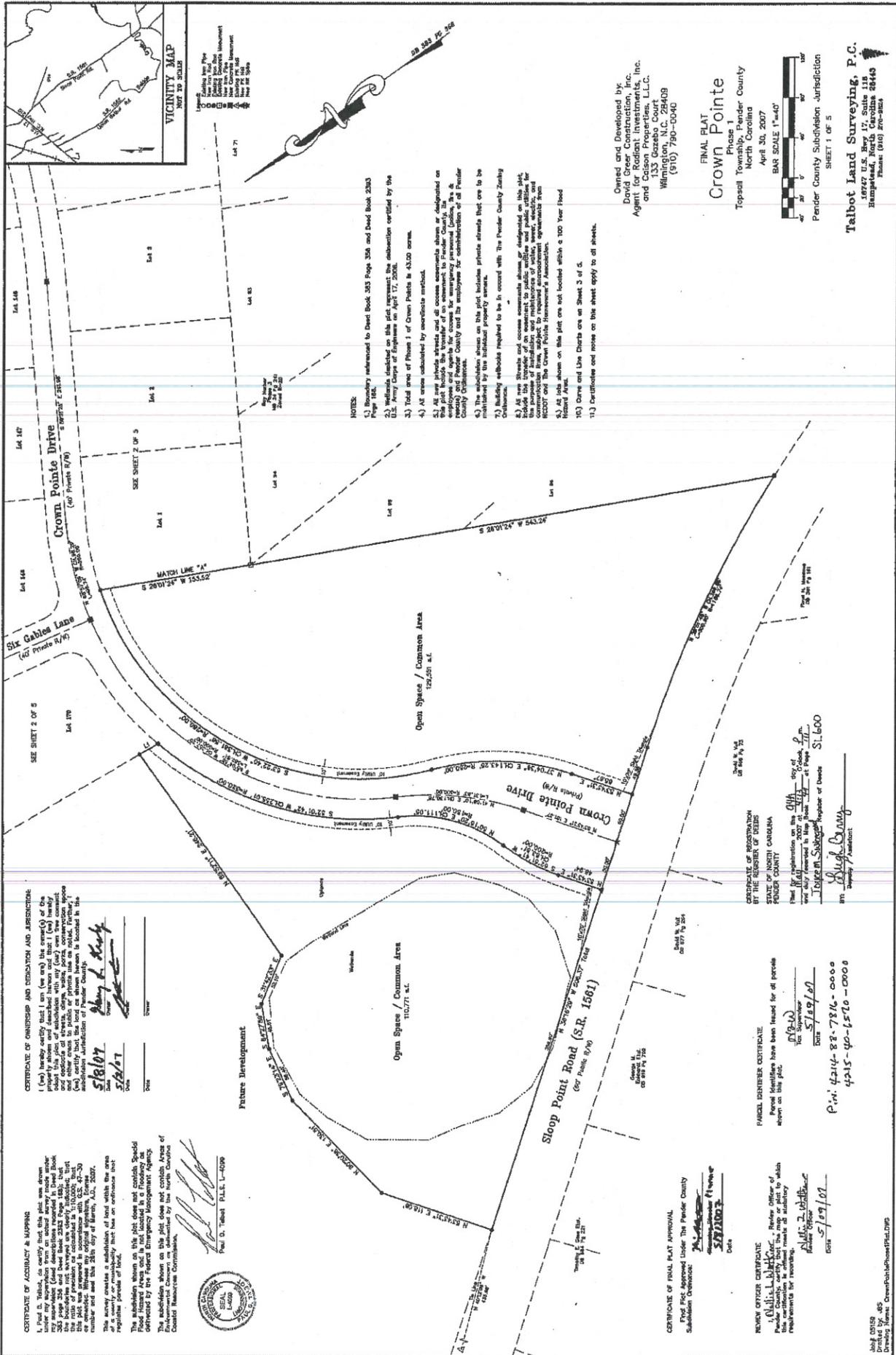
26. A copy of the restrictive or protective covenants applicable to the Planned Development shall be submitted to the Planning Board before final plat approval.
27. Unless waived by the Planning Board, the developer shall submit the proposed plans for vegetation preservation and land clearance in the Planned Development.
28. The buffer and landscape plan must be submitted to Planning Department prior to final approval of the Preliminary Plan. A Type "A" buffer shall be provided for the entire perimeter of the property. The multi-family portion of the subdivision shall be separated from single-family development by the same type "A" buffer.
29. A restrictive easement with a note for individual maintenance of buffers shall be provided on the plat and recorded in the homeowners' association documents.
30. The revised plat for this development should be resubmitted within 30 days of approval by the Planning Board with all map and plan changes for approval by the Director.

Items To Be Considered By The Planning Board

1. When any portion of the development is in a Special Flood Hazard Area, as defined in the Pender County Flood Ordinance, as amended, and set out in the FEMA Rate Index Maps, one (1) permanent monument in each subdivision is required to have its elevation recorded on the final plat. ****PLEASE NOTE**** - New Pender County FIRMS are now available for review and are required to be used as best available data.
2. Base Flood Elevation(s) shall be determined and shown along with the SFHA boundary on the plat. ****PLEASE NOTE**** - New Pender County FIRMS are now available for review and are required to be used as best available data.
3. The subdivision shall not block or obstruct the natural drainage of any adjoining area.
4. Private streets must meet the following conditions:
 - a. The streets meet the NCDOT Secondary Road Construction Standards or Private Street Standards, Pender County, and
 - b. A Homeowners Association has been established for the development under the provisions for Homeowners Associations contained in this ordinance, and
 - c. The final recorded plat contains a clear and specific note as follows: "Ownership and maintenance of all streets designated as private in this development will be the responsibility of the Homeowners Association."
5. 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: RW = 50', Pavement = 37' to pavement edge.
6. Sight easements as required in the NCDOT Secondary Roads Standards shall be provided at all street intersections.
7. All utility lines located in a public or private street shall meet NCDOT requirements for encroachment of such lines.

Informational Notes for Developer:

1. A copy of the preliminary plat signed by EMC representative approving the street names will be required to be submitted within 30 days of preliminary plat approval by the Planning Board and before final Preliminary Plan approval by Planning Department.
2. Any reduction in open space will require planning board approval.
3. The applicant should be aware of certifications required for roads, drainage plans, facilities and other improvements in the development. The certification forms are found on the Pender County Website. All documented certifications must be delivered to Planning Department prior to Final Plat Approval.
4. Any changes in the development name or road names after approval by the planning board will require an additional review fee with lot assessments to be paid in full.



CERTIFICATE OF OWNERSHIP AND JURISDICTION
 I, the undersigned, do hereby certify that I am (we are) the owner(s) of the above described land and that I (we) have the right to convey the same and to execute all necessary instruments for the same, and I (we) do hereby certify that the above described land is not subject to any lien, mortgage, or other encumbrance, and that the same is not subject to any claim of any person other than myself (ourselves).
 Date: 5/18/07
 Signature: [Signature]
 Title: [Title]

CERTIFICATE OF ACCURACY & MAPPING
 I, the undersigned, do hereby certify that this plat was drawn by me or under my direct supervision and that I am a duly licensed Professional Surveyor in the State of North Carolina. I have read the plat and the accompanying notes and certify that the same are true and correct to the best of my knowledge and belief, and that the same conform to the provisions of the laws of the State of North Carolina relating to the practice of the profession of a Professional Surveyor. I have also read the provisions of the laws of the State of North Carolina relating to the practice of the profession of a Professional Surveyor, and I have read the provisions of the laws of the State of North Carolina relating to the practice of the profession of a Professional Surveyor, and I have read the provisions of the laws of the State of North Carolina relating to the practice of the profession of a Professional Surveyor.
 Date: 5/18/07
 Signature: [Signature]
 Title: [Title]

CERTIFICATE OF FINAL PLAT APPROVAL
 This Plat Approved Under The Pender County Subdivision Ordinance.
 Date: 5/18/07
 Signature: [Signature]
 Title: [Title]

REVIEW OFFICER CERTIFICATE
 I, the undersigned, do hereby certify that I am a duly licensed Professional Surveyor in the State of North Carolina. I have read the plat and the accompanying notes and certify that the same are true and correct to the best of my knowledge and belief, and that the same conform to the provisions of the laws of the State of North Carolina relating to the practice of the profession of a Professional Surveyor. I have also read the provisions of the laws of the State of North Carolina relating to the practice of the profession of a Professional Surveyor, and I have read the provisions of the laws of the State of North Carolina relating to the practice of the profession of a Professional Surveyor.
 Date: 5/18/07
 Signature: [Signature]
 Title: [Title]

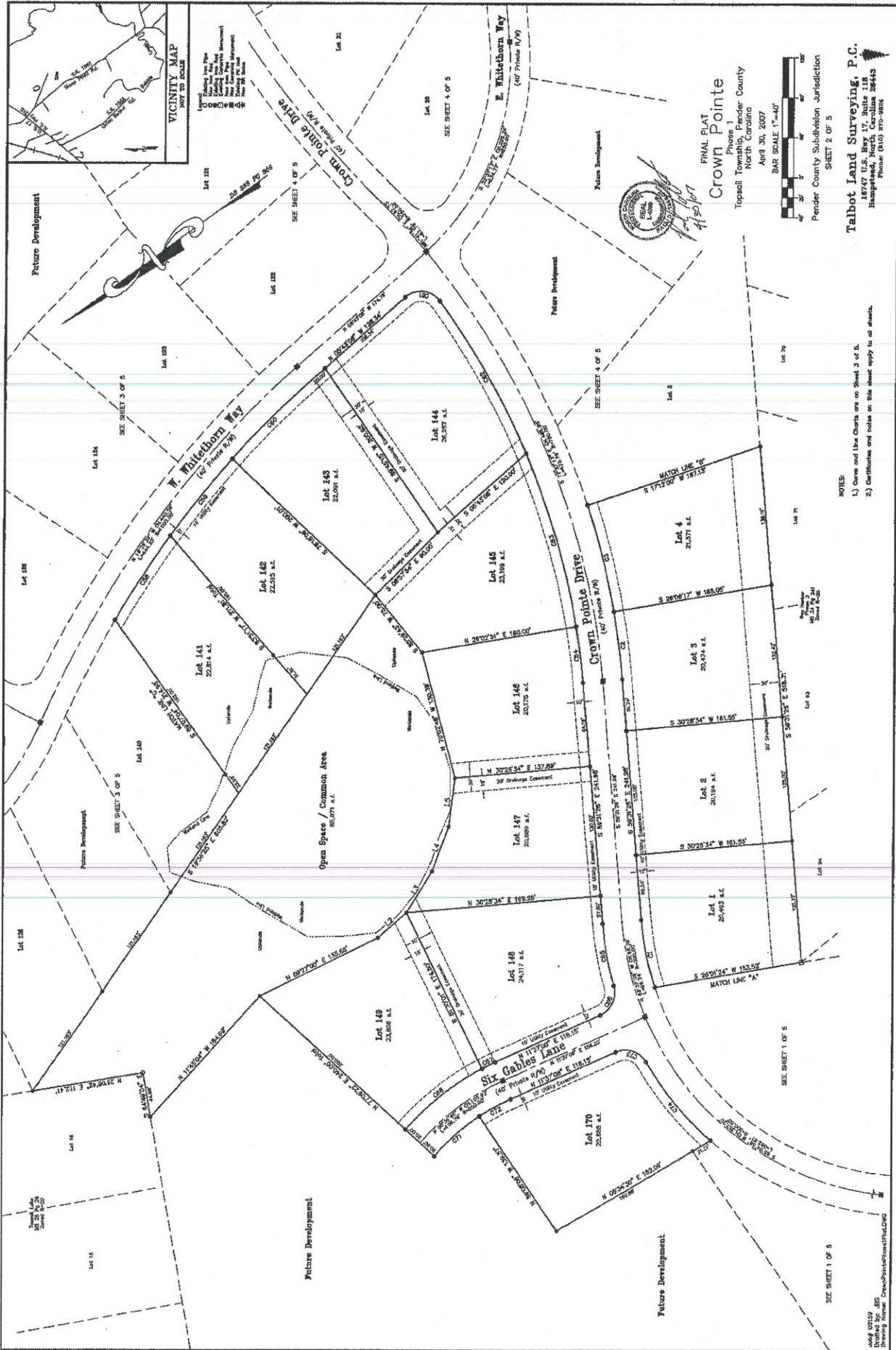
PARCEL PRINTER CERTIFICATE
 Parcel Identifiers have been found for all parcels shown on this plat.
 Date: 5/18/07
 Signature: [Signature]
 Title: [Title]

CERTIFICATE OF REPRODUCTION
 BY THE REGISTER OF DEEDS
 STATE OF NORTH CAROLINA
 PENDER COUNTY
 Date: 5/18/07
 Signature: [Signature]
 Title: [Title]

NOTES
 1) Boundary referenced to Deed Book 305 Page 306 and Deed Book 2363 Page 161.
 2) Metes and bounds as shown on the subdivision certified by the Pender County Register of Deeds on April 17, 2006.
 3) All areas outlined by a dashed line.
 4) All areas outlined by a solid line.
 5) All areas outlined by a dotted line.
 6) All areas outlined by a long dashed line.
 7) All areas outlined by a short dashed line.
 8) All areas outlined by a dash-dot line.
 9) All areas outlined by a long dash-short dash line.
 10) Drive and Lot Numbers on all sheets 3 of 4.
 11) Conditions set forth on this sheet apply to all sheets.

FINAL PLAT
Crown Pointe
 Phase 1
 Toppal Township, Pender County
 North Carolina
 April 30, 2007
 BNS SCALE 1"=40'
 Owned and Developed by:
 Crown Pointe, Inc.
 Agent for Radon Investments, Inc.
 and Caixon Properties, L.L.C.
 133 Gazebo Court
 Wilmington, N.C. 28409
 (910) 790-0040

Talbot Land Surveying, P.C.
 1847 U.S. Hwy 17, Suite 118
 Hampden, North Carolina 28543
 Phone: (910) 850-0000
 MS 44 89 111 1 of 5

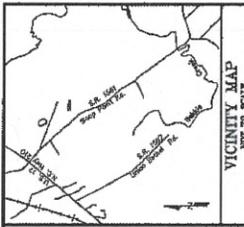


FINAL PLAT
Crown Pointe
 Phase 1
 Topsoil Township, Pender County
 North Carolina
 April 30, 2007
 BAR SCALE 1"=40'

NOTES:
 1) Curve and Line Charts are on Sheet 3 of 5.
 2) Certificates and notes on this sheet apply to all sheets.

Talbot Land Surveying, P.C.
 18747 U.S. Hwy 17, Suite 118
 Hampstead, North Carolina 28443
 Phone (910) 490-9000

MB.44 pg.111 2 of 5



VICINITY MAP
NOT TO SCALE

Legend:
 - Existing Lot Type
 - Proposed Lot Type
 - Existing Easement
 - Proposed Easement
 - Proposed Right-of-Way
 - Proposed Subdivision Boundary
 - Proposed Street Right-of-Way

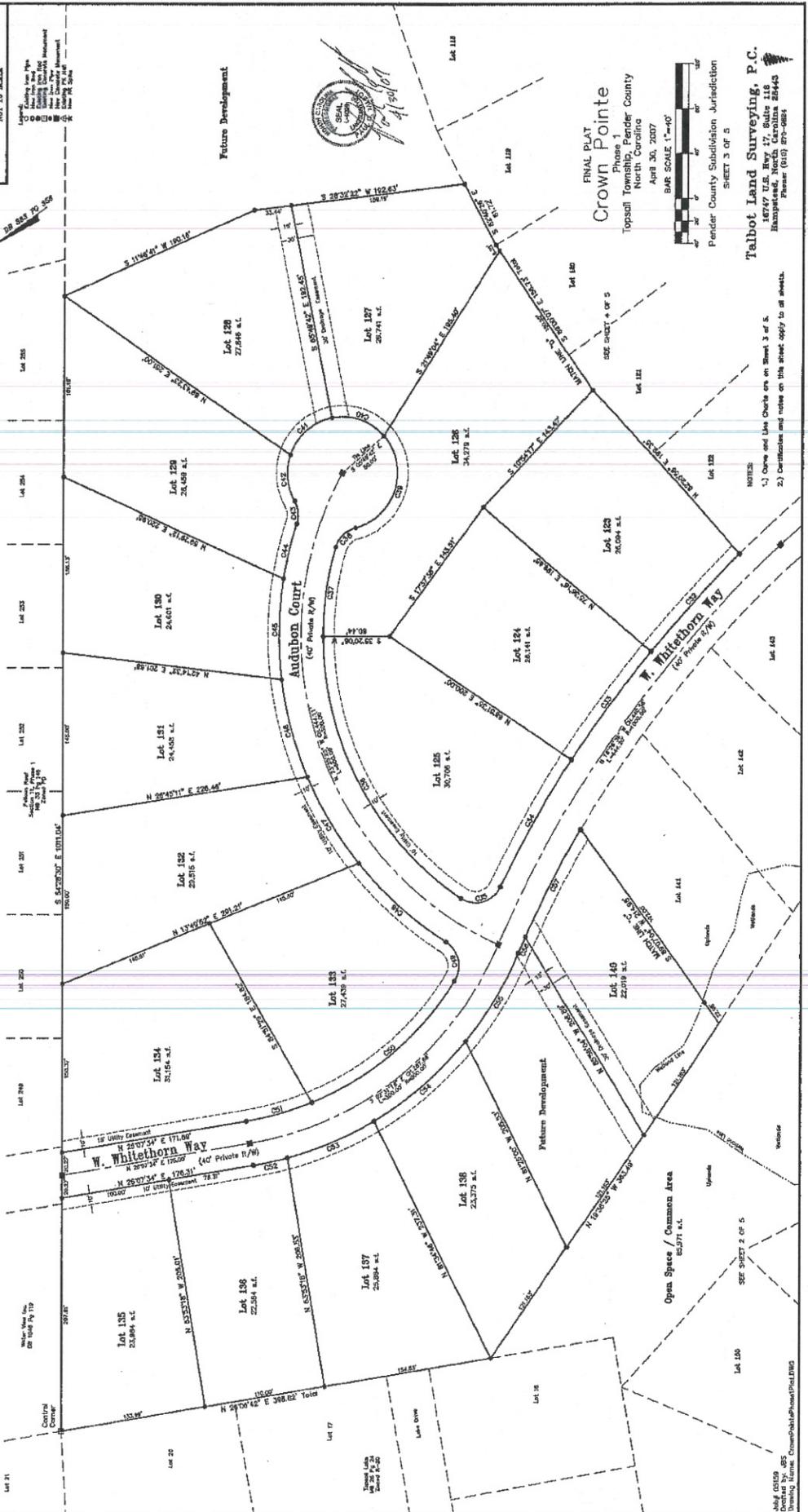
Lot	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)
126	27,846		
127	26,741		
128	24,688		
129	24,688		
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FINAL PLAT
Crown Pointe
 Phase 1
 Topsail Township, Pender County
 North Carolina
 APR 30, 2007
 BAR SCALE 1"=40'
 SHEET 3 OF 5

Talbot Land Surveying, P.C.
 16747 U.S. Hwy. 17
 Hampstead, North Carolina 28443
 Pender County Subdivision Jurisdiction
 Phone: (919) 877-0885

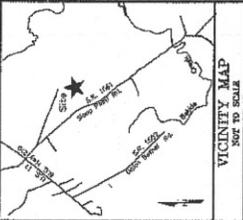
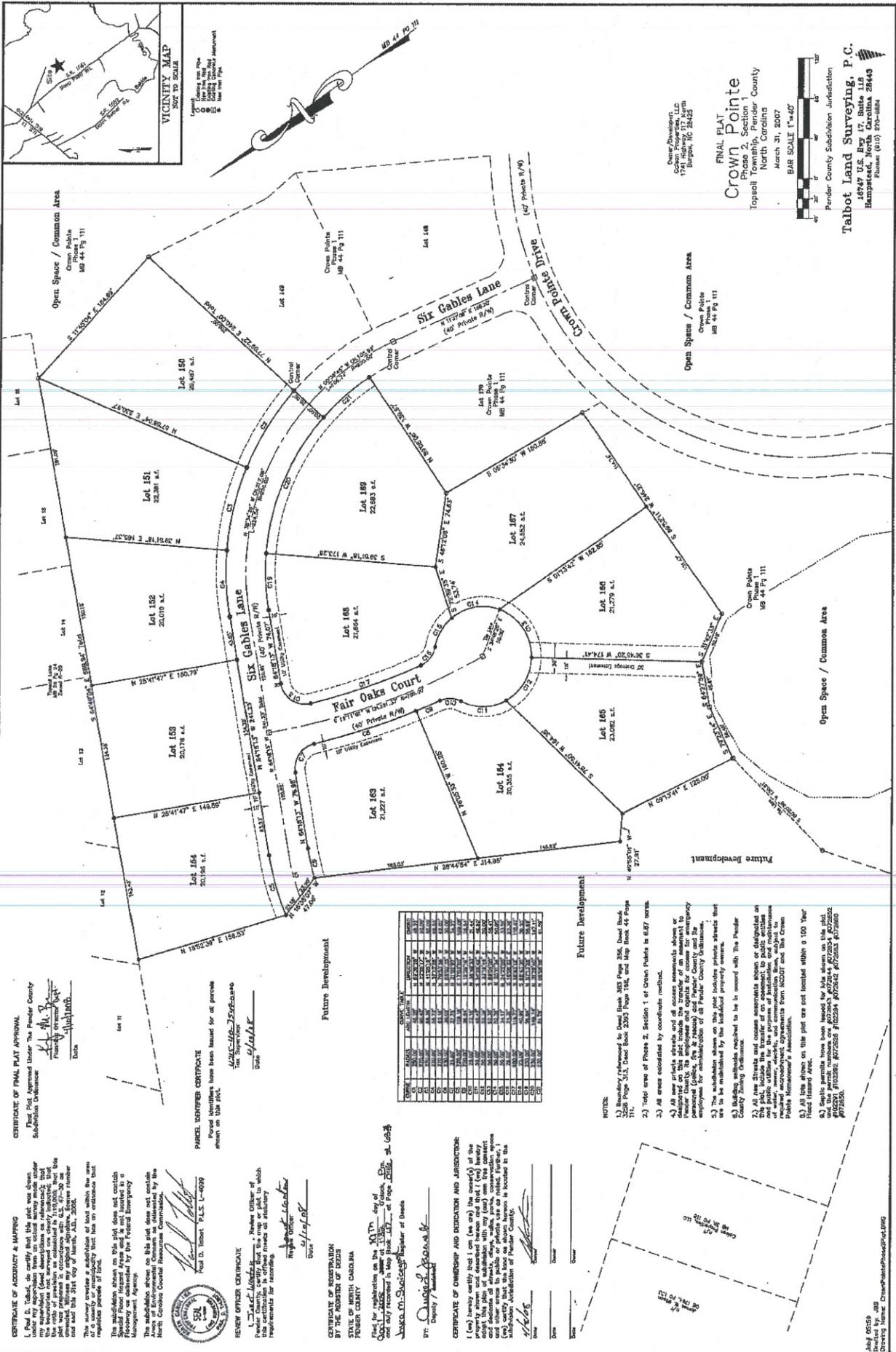
1) Check and List Checks are on Sheet 3 of 5.
 2) Dimensions and notes on this sheet apply to all sheets.

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FINAL PLAN
Crown Pointe
 Phase 2, Section 1
 Topseal Township, Fender County
 North Carolina
 March 31, 2007
 BAR SCALE 1"=40'
 Pender County Subdivision Jurisdiction
 Talbot Land Surveying, P.C.
 18747 U.S. Hwy 17, Suite 116
 Hampstead, North Carolina 28443
 Phone: (910) 870-1884

CERTIFICATE OF ACCURACY & MAPPING
 I, Paul D. Talbot, do hereby certify that this plat was drawn under my supervision from an actual survey made under the provisions of the Public Survey Laws of North Carolina. The boundaries are shown as they exist, and the plat was prepared in accordance with G.S. 42-21.30 and the provisions of the Public Survey Laws of North Carolina. The survey was made on the 28th day of February, 2007, and the plat was filed for record on the 28th day of February, 2007.

CERTIFICATE OF FINAL PLAT APPROVAL
 Paul D. Talbot, Surveyor
 Talbot Land Surveying, P.C.
 Date: 2/28/07

PARCEL NUMBER CERTIFICATE
 Parcel numbers have been issued for all parcels shown on this plat.
 Paul D. Talbot, P.A.S. 4-079

REVIEW OFFER CERTIFICATE
 I, _____, Review Officer of Fender County, certify that the map or plat in which this certificate is offered meets all statutory requirements for recording.
 Date: 2/28/07

CERTIFICATE OF REGISTRATION
 BY THE REGISTER OF DEEDS
 FENDER COUNTY
 Filed for registration on the 20th day of February, 2007, at _____ o'clock P.M.
 _____, Register of Deeds

Future Development

Lot	Area (sq. ft.)	Area (ac.)	Proposed Use
148	20,000	0.46	Residential
149	20,000	0.46	Residential
150	20,000	0.46	Residential
151	20,000	0.46	Residential
152	20,000	0.46	Residential
153	20,000	0.46	Residential
154	20,000	0.46	Residential
155	20,000	0.46	Residential
156	20,000	0.46	Residential

Future Development
 1) Boundary referenced to Deed Book 363 Page 306, Deed Book 365 Page 315, Deed Book 2003 Page 156, and Map Book 44 Page 11.
 2) 1/2 acre of Phase 2, Section 1 of Crown Pointe is 6.87 acres.
 3) All areas contained by coordinate method.
 4) All new private streets and all access easements shown or proposed on this plat shall be dedicated to the public use of Fender County, North Carolina, and shall be subject to the provisions of the Fender County Ordinance relating to the dedication of streets.
 5) The dedication of all private streets shown on this plat shall be subject to the provisions of the Fender County Ordinance relating to the dedication of streets.
 6) All new streets and access easements shown or proposed on this plat shall be subject to the provisions of the Fender County Ordinance relating to the dedication of streets, and shall be subject to the provisions of the Fender County Ordinance relating to the dedication of streets.
 7) All lots shown on this plat are not located within a 100 Year Flood Hazard Area.

NOTES:
 1) Boundary referenced to Deed Book 363 Page 306, Deed Book 365 Page 315, Deed Book 2003 Page 156, and Map Book 44 Page 11.
 2) 1/2 acre of Phase 2, Section 1 of Crown Pointe is 6.87 acres.
 3) All areas contained by coordinate method.
 4) All new private streets and all access easements shown or proposed on this plat shall be dedicated to the public use of Fender County, North Carolina, and shall be subject to the provisions of the Fender County Ordinance relating to the dedication of streets.
 5) The dedication of all private streets shown on this plat shall be subject to the provisions of the Fender County Ordinance relating to the dedication of streets.
 6) All new streets and access easements shown or proposed on this plat shall be subject to the provisions of the Fender County Ordinance relating to the dedication of streets, and shall be subject to the provisions of the Fender County Ordinance relating to the dedication of streets.
 7) All lots shown on this plat are not located within a 100 Year Flood Hazard Area.

Map
 Date: _____

ST 6024 MB 47 P3 046

Attachment 4

Cape Fear Council of Governments RPO

Cape Fear RPO has no comment

Four County Electric Company

No response

NC DENR Division of Coastal Management

No comment

NC DENR Division of Forestry

No response

NC Department of Environmental Quality

Thanks Megan. The Crown Point CAMA Major permit has once again been renewed. Current expiration of CAMA Major Permit No. 97-08 is scheduled to expire on July 9, 2017. Unless things change (development wise), the developer has authorization to begin s/d construction.

Thank you,

Jason

NC DENR, Division of Energy, Mineral, and Land Resources - Land Quality Section

No response

NC DENR Division of Waste Management

No response

NC DENR Division of Water Quality

No response

NC DOT Division of Highways

Driveway permit approved 12/19/06. Permit # P-0904. Left turn lane require. NCDOT has contacted developer to discuss phasing, or house count for the proposed time frame for the construction of required left turn lane. Once NCDOT has the information from the developer, NCDOT will inform Pender County.

NC DOT Transportation Planning Branch

No response

NC Office of State Archaeology

No response

NC Wildlife Resources Commission

No response

Pender County Addressing Coordinator

No response

Pender County Building Inspections

No response

Pender County Emergency Management

No response

Pender County Environmental Health

Any new lot created will need to apply for an IP and/or CA. Since this is not public water, no permit is required for a well.

Pender County Fire Marshal

No response

Pender County Flood Plain Management

There is a portion of the subject property that is located within the "Zone AE" Special Flood Hazard Area, according to the 2007 Flood Insurance Rate Maps (FIRMs), Map Number 3720421400K, and Panel Number 4214, 4215, and 4224. Any development within this identified area is required to comply with the Flood Damage Prevention Ordinance.

Pender County Parks and Recreation

Appears to have more than the required open space so Parks and Recreation has 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

No response

Progress Energy Corporation

No response

US Army Corps of Engineers

No response

Wilmington Metropolitan Planning Organization

(This project was originally approved in 2006 and was not within the WMPO planning boundary at that time. The comments below are recommendations for the requested changes received from the TRC review.)

- 1. The MDP calls for 170 homes. Based upon this number of homes a TIA will be required for this project.*
- 2. If a previous TIA was completed for the project, please submit a copy of the TIA to the WMPO to determine if an update is required.*
- 3. Increase the cross section of the proposed cul-de-sac to a minimum R42' to accommodate Fire, Rescue and School Bus vehicles.*
- 4. Provide pedestrian access to the open space common areas shown on the site plans.*
- 5. Provide a street connection to Bay Harbor Phase 1.*

Recommendations:

- 1. Stratford Place and Berkshire Lane connect to Sanderling Circle. There is no logical point where the street changes name.*

The subdivision is proposing many "emergency access only" connections. Provide standard street connections for the subdivision

Pender Soil and Water Conservation

Soil & Water has no problem with either of these two request.



Applicant and Owner:
Radiant Investment Inc.

MDP/Preliminary Plat (Revision)

Case Number:
135-2015

Crown Pointe

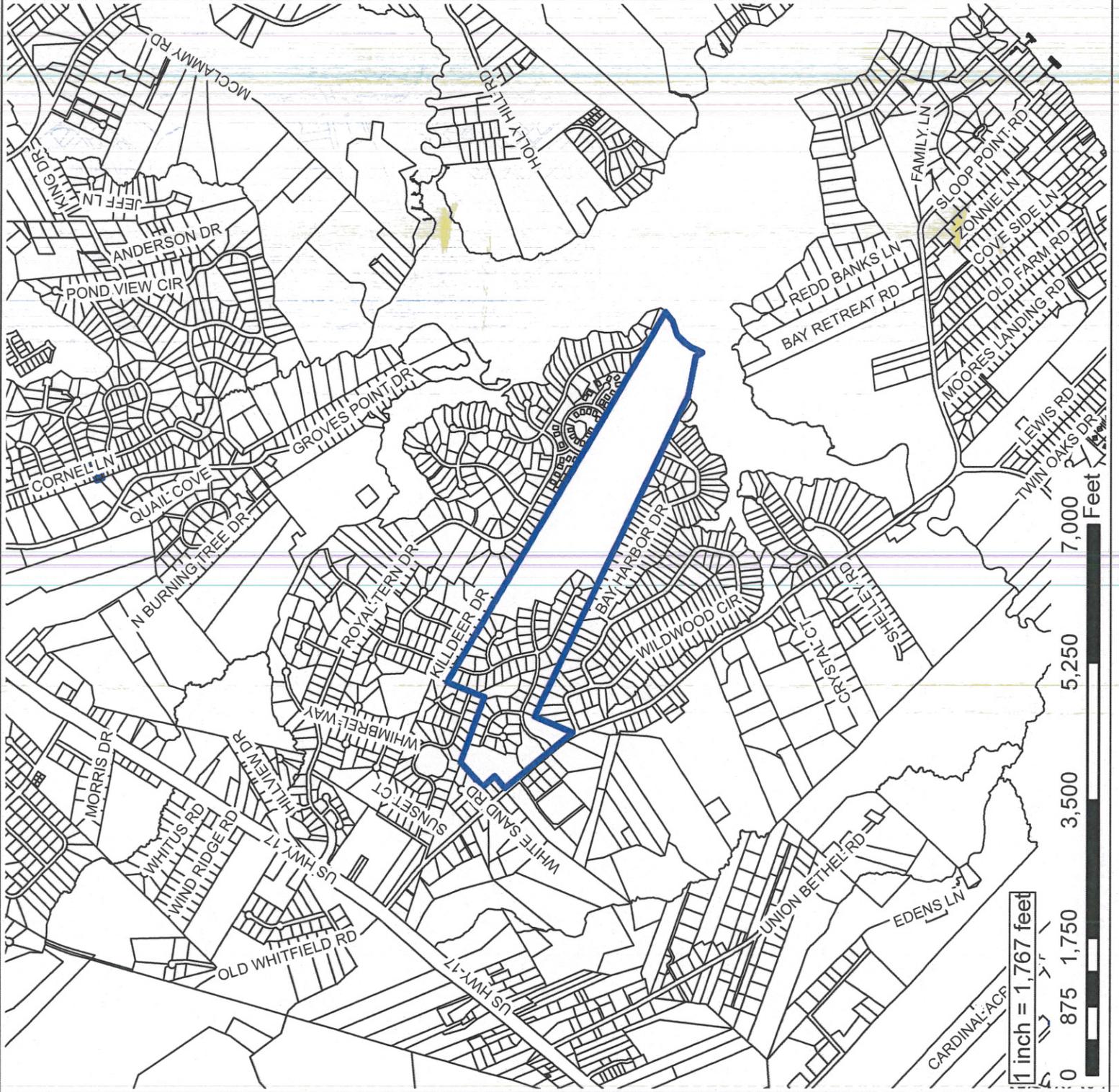
Legend



Subject Property



Vicinity





Applicant and Owner:
Radiant Investment Inc.

MDP/Preliminary Plat (Revision)

Case Number:
135-2015

Crown Pointe

Legend

Subject Property

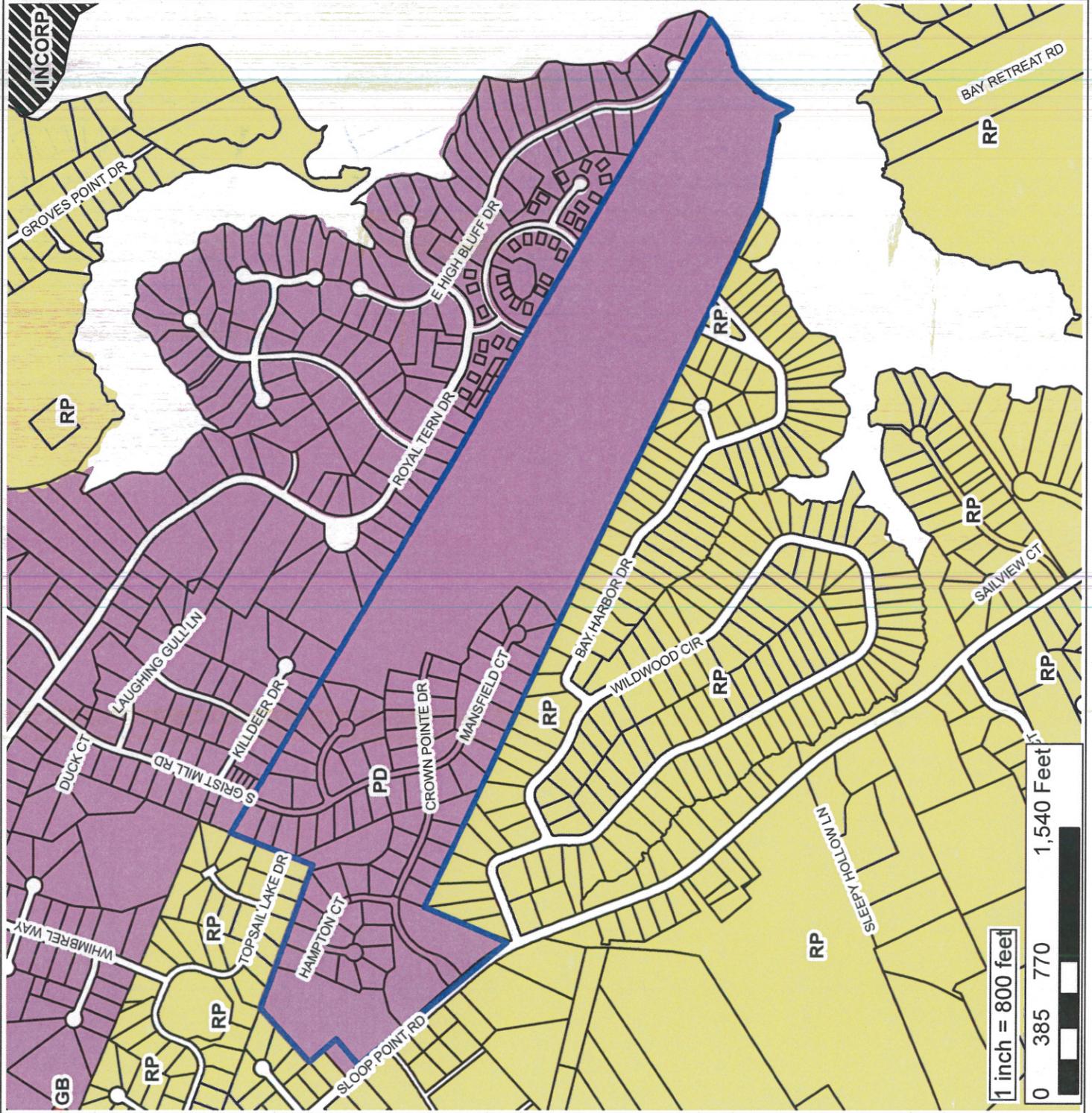
Zoning Classification

JDO Zoning

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



Current Zoning





Applicant and Owner:
Radiant Investment Inc.

MDP/Preliminary Plat (Revision)

Case Number:
135-2015

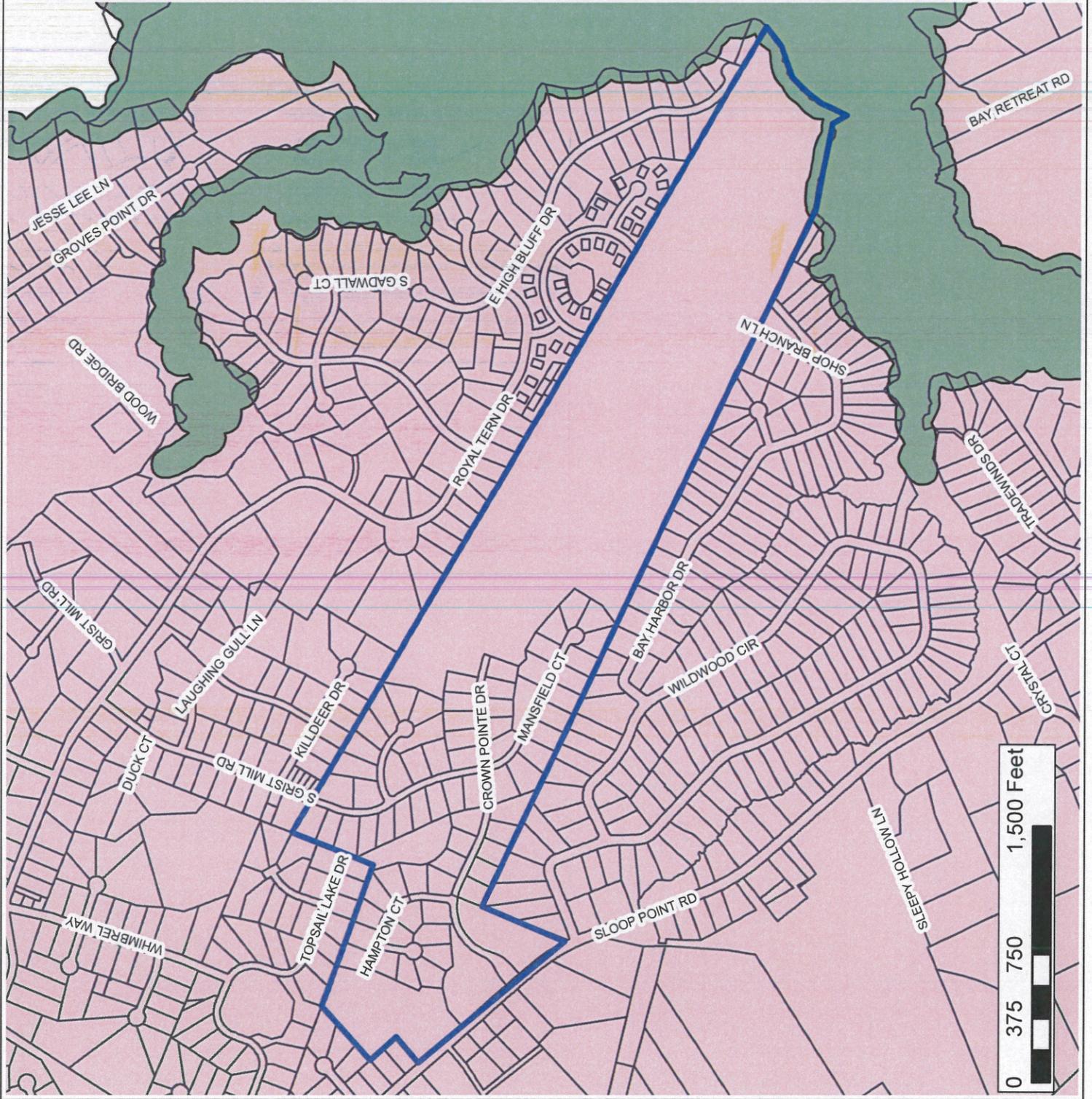
Crown Pointe

Legend

-  Subject Property
-  Conservation
-  Industrial
-  Mixed Use
-  Office, Institutional, Business
-  Rural Growth
-  Suburban Growth



Future Land Use





Applicant and Owner:
Radiant Investment Inc.

MDP/Preliminary Plat (Revision)

Case Number:
135-2015

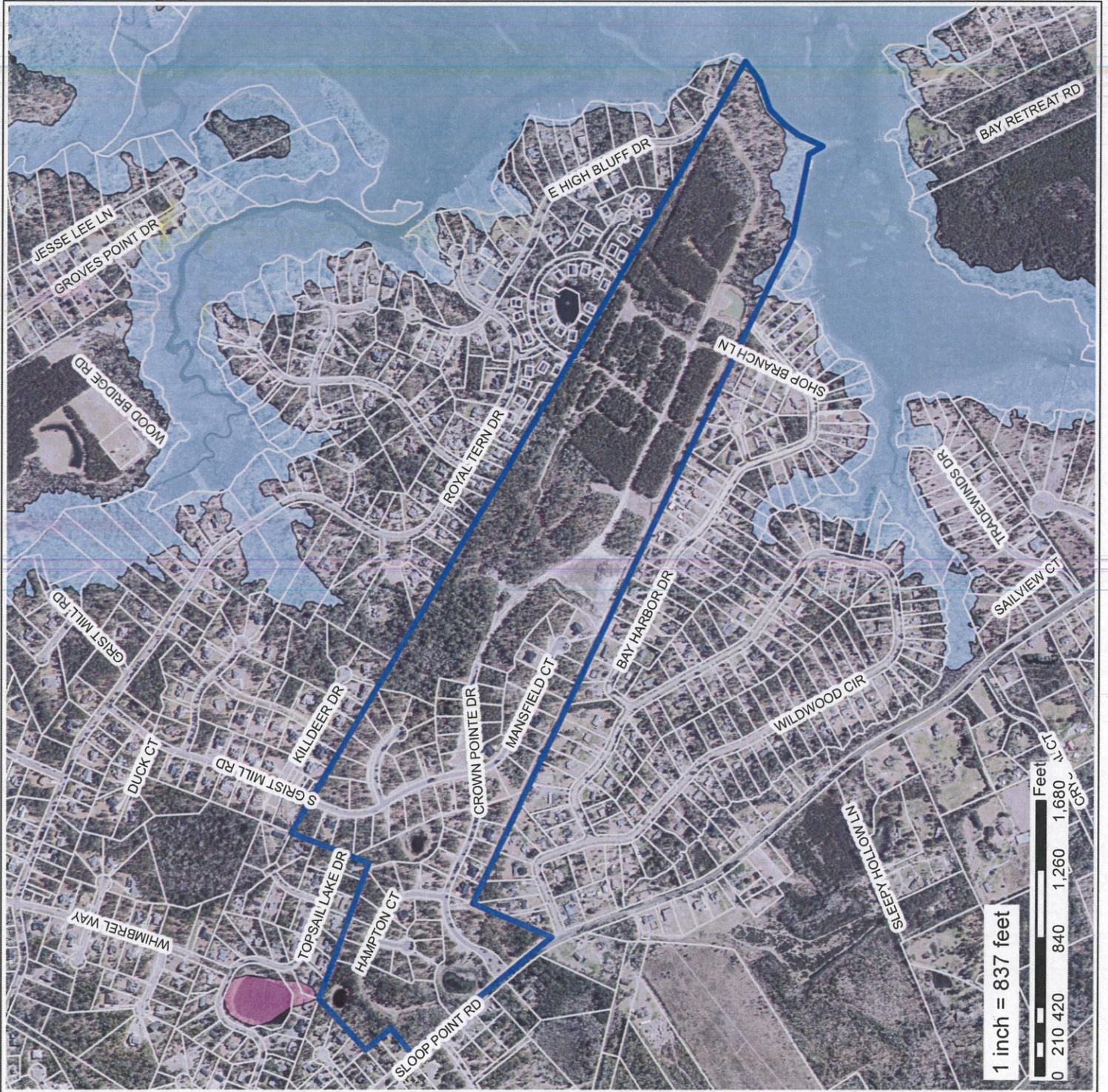
Crown Pointe

Legend

- Subject Property
- Flood Hazard Areas
 - A
 - AE
 - AEFW
 - SHADED X
 - VE



Flood Zones



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

MEMORANDUM

To: Pender County Planning Board

From: Planning Staff

Date: February 2, 2016

RE: Zoning Text Amendments

Staff continues to work on several items as an update to the Pender County Unified Development Ordinance. These items will be presented over a series of Planning Board discussion items with the intent to incorporate into a single zoning text amendment in the month of April. Included in this zoning text amendment are; legislative updates, Collector Street plan recommendations, addressing ordinance, private right connection standards, and cul-de-sac radius requirements. A brief overview of each topic is detailed below:

Legislative Updates

Following the 2015 Sessions in the North Carolina General Assembly, there were changes made in regard to planning and development regulation. Staff will comprehensively identify changes in the Ordinance that are necessary due to new legislation. At this time, it is anticipated that items such as performance guarantees for subdivision improvements, sign regulations, and other environmental updates may be included. Please review the UNC School of Government Planning and Zoning Law Bulletin providing a background on these items (Attachment 1).

S.L. 2015-187 (H.B. 721) clarifies the restrictions on performance guarantee requirements from a local government authority. Performance guarantees are only to be used for completing the improvements and not the repair or maintenance after completion. This eliminates the ongoing maintenance guarantee. Additionally, the menu of acceptable financial instruments for a developer to choose can no longer be set by the local government; the financial instruments are set by the legislation. Included on the menu are: surety bond issued by any company authorized to do business in the state, letter of credit issued by any financial institution licensed to do business in the state, and another form of guarantee that provides equivalent security to a surety bond or letter of credit.

S.L. 2015-246 (H.B. 44) exempts construction site fence wrap signs from the zoning sign regulations. This would only be exempt until a Certificate of Occupancy or twenty-four months passes, whichever is less time according to new legislation. This is advertisement "sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or

required." Language located in Section 9.4.1 of the Unified Development Ordinance may necessitate an update reflecting this change.

Environmental changes from the 2015 session include an update to riparian buffer regulations (Section 13 of S.L. 2015-246 (H.B. 44) to prohibit cities and counties from enacting or enforcing a riparian setback that exceeds any state or federal setback. If the local jurisdiction had an ordinance prior to August 1, 1997 for the purpose of protection of water quality and prevention of excess nutrient runoff then this would be not be applicable.

A second environmental change is an update to the stormwater regulations S.L. 2015-149 (H.B. 634) to amend the previous G.S. 143-214.7(b2) detailing gravel and trails are no longer considered built upon area if they meet the specific standards set forth. As outlined in the bill; *For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck or; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; or a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).*"

Section 4.19 of S.L. 2015-286 focuses the Department of Environmental Quality to evaluate the water quality in the coastal regions and the impact of stormwater in these sensitive watersheds. Specifically for research includes if the low density stormwater permit built upon area can be increased without negatively impacting water quality. This is scheduled to be completed in April 2016.

Of note, the S.L. 2015-217 (H.B. 581) assigns NCDOT to study the subdivision acceptance of new roadways when dedicated to NCDOT for public maintenance. This would determine if the process currently is timely and efficient and whether the minimum right of way established and construction standards are acceptable, finally there is an aspect to the study which identifies the financial impact if these roadways are not accepted to the State system and what the impacts would be on property owners.

Staff will assess current language in the Unified Development Ordinance for compliance with new legislation.

Collector Street Plan Recommendations

It is anticipated that the Pender County Collector Street Plan will be up for consideration to adopt by the Board of County Commissioners on March 7, 2016. This plan includes policy recommendations and draft ordinance language in relation to transportation planning. Staff will identify key areas of the 2016 Pender Collector Street Plan which warrant update to the Unified Development Ordinance.

Addressing Ordinance

The Geographic Information System (GIS) Division is a new division within the Planning and Community Development Department in 2015. Within the GIS Division addressing services are provided. Two Ordinances administered by the Addressing Coordinator in coordination with Emergency Services are; the Addressing and Display Ordinance and the Road Naming Ordinance. These two independent ordinances will be incorporated into the Unified Development Ordinance; which will improve customer service and more clearly identify steps needed for this aspect of development approval.

Private Street Connections

By encouraging interconnectivity of the transportation network there are inherent issues that arise when an infill development is proposed to connect to private right of way. Staff is seeking guidance on when an existing private right of way would require improvement to NCDOT standards for design, to include surfacing and drainage. Many of the existing private right of ways are not built to NCDOT standards and would require some retrofit or improvement of the existing roadway before the roadway could be certified that it is built to NCDOT standards for private use or for dedication to the state system.

Current language in the Unified Development Ordinance specifies that all private rights of way must be designed and constructed in compliance with the current NCDOT Subdivision Roads Minimum Construction Standards as outlined in Section 7.5.3, which is applicable to new development. The issue arises when interconnectivity is required and the connections made are to substandard roadways.

The Ordinance currently does not detail when the roadway is considered part of the subdivision of land or when the property is merely connecting to another parcel. If in essence the private right of ways may be a secondary connection to the subject property (and an existing State maintained right of way exists for users in the property) should the private right of way connection be maintained at the current state, even if the roadway is in disrepair?

Additional users on the roadway may only deteriorate an existing private right of way. However, by not requiring connections between developments, the existing transportation system absorbs the increased demand for adequate transportation routes. This in turn, concentrates motorized traffic on a limited number of large roads, which causes longer, indirect trips and limits opportunities for alternate routes.

When determining adequate access to a subject parcel Section 7.4.1 details; "Required access must provide a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use." The intended use is not to deteriorate the existing transportation network, but rather to supplement for emergency management connections and disperse the traffic into the adjoining network. Section 7.5.1.A.6 states; "The layout of the streets as to arrangement, width, grade, character, and location shall conform to...the adjoining street system, as well as existing, planned and proposed streets. Reasonable access will be provided to adjacent property for development."

Interconnected roadways are imperative to the transportation network in Pender County; often the connections proposed are from a new proposed public or private right of way to an existing private right of way. In the infill development, utilizing a private right of way may be needed for adequate connectivity and conformance to the adjoining street system.

Cul-De-Sac Radius

Planning Board previously has discussed potential cul-de-sac radius amendments. Currently, as written, the Pender County Unified Development Ordinance Section 7.5.1 F specifies:

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'.

There are however, inherent conditions that are specific to each development which may necessitate a larger cul-de-sac than NCDOT requirements and Pender County Unified Development Ordinance minimum requirements. Conditions that may require a larger cul-de-sac could be school bus accessibility and fire apparatus accessibility. According to Pender County Schools, buses are required to stop per quarter mile and may not need to utilize each cul-de-sac in a development; some cul-de-sacs may need to be larger to accommodate the school buses. Additionally, Pender County Emergency Management staff indicated that fire trucks and emergency vehicles may require additional area to turn around above and beyond the NCDOT minimum requirements.

It is Staff's recommendation that the Pender County Unified Development Ordinance text be modified to allow for specific evaluation of each cul-de-sac and greater clarity for the applicant while meeting the needs of Pender County Schools and Emergency Management. This language must be identified in the Unified Development Ordinance to ensure that a developer is aware of the specific regulation prior to a Technical Review Committee meeting.

Distinguishing between specific lengths could help clarify the regulations. Suggested amendments for the Pender County Unified Development Ordinance Section 7.5.1.F. includes distinguishing varying lengths of a permanent dead end street to then require a larger bulb for Emergency Management and school bus turn around. The length of a cul-de-sac will be measured from the last point of alternative connected access. A draft of the intent for cul-de-sac radius requirements can be seen in Table 1.

Table 1

	Total Length	Edge of Pavement Radius	Right of Way with curb and gutter	Right of Way without curb and gutter
Short Cul-de-sac	500 ft. or less	35 ft.	45 ft.	50 ft.
Long Cul-de-sac	501 ft. to 1,000 ft.	40 ft.	50 ft.	55 ft.

It was not deemed palatable at the December 1, 2015 meeting to also include a NCDOT hammerhead design or other alternative designs as an approved turn around to allow applicants an option to deviate from a traditional bulb design.



2015 North Carolina Legislation Related to Planning and Development Regulation

Adam S. Lovelady and David W. Owens

The North Carolina General Assembly in 2015 resolved several issues regarding planning and development regulation that had been under discussion for several sessions and refined a number of other previously adopted laws. The question of the extent to which cities and counties can regulate the design of new residences and the fate of the zoning protest petition were resolved. Clarifications were made to numerous laws, including performance guarantees for subdivision improvements, the scale of projects eligible for development agreements and the term of those agreements, tax credits for historic preservation projects, and economic development incentives.

Zoning

Design Standards

One of the legislative priorities for the homebuilding industry in recent legislative sessions has been enactment of limits on local government use of zoning to impose design standards on residential construction. A regulatory requirement for particular types of siding (for example, requiring brick facing or prohibiting vinyl siding) was the most frequently cited concern, but limits on where garages can be placed (such as banning “snout houses”) and other limits also were raised. Bills to restrict local government use of design standards had passed individual houses of the General Assembly in the past but had never quite become law. Limits on residential design standards were approved by the Senate in 2011 (S.B. 731) and were approved by the House in 2013 (H.B. 150) and in 2014 (H.B. 734). In 2015, limits similar to those proposed in 2013 were adopted. The bill had widespread bipartisan support, securing majority approval from both parties and passing 98 to 17 in the House of Representatives and 43 to 7 in the Senate.

S.L. 2015-86 (S.B. 25) became effective law in North Carolina as of June 19, 2015, and applies to all zoning ordinances adopted before, on, or after that date. The law adds new subsections to Sections 160A-381 (cities) and 153A-340 (counties) of the North Carolina General Statutes (hereinafter G.S.).

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The restrictions on design standards apply to any regulation of buildings subject to the N.C. Residential Code for One- and Two-Family Dwellings. Thus all single-family homes and duplexes are covered. Townhouses also are covered if they are built to the single-family code. The restrictions do not apply to multi-family housing or non-residential structures, such as commercial, institutional, or industrial buildings. The restrictions on design standards do not apply to private restrictive covenants, only to government regulation.

The law prohibits the direct or indirect regulation of “building design elements” through a plan consistency review. The law provides a list of elements that cannot be regulated. These are

1. exterior building color;
2. type or style of exterior cladding material;
3. style or materials of roofs or porches;
4. exterior nonstructural architectural ornamentation;
5. location or architectural styling of windows and doors, including garage doors;
6. location of rooms; and
7. interior layout of rooms.

Several items explicitly listed as not being “building design elements” that can still be regulated are

1. height, bulk, orientation on the lot, location of structure on a lot;
2. use of buffering or screening to minimize visual impacts, to mitigate impacts of light or noise, or to protect the privacy of neighbors; and
3. permitted uses of land or structures subject to the one- and two-family building code.

One of the concerns raised during the legislative debate was whether a prohibition of local regulation of the location and layout of rooms would preclude limits designed to limit overcrowding in residential neighborhoods. For example, regulations on the number of proposed kitchens and the locations of multiple entrances have been used by some local governments to limit multifamily occupancy in single-family zoning districts. The law still allows a local government to regulate that use, but a zoning ordinance can no longer presume that the use restriction would be violated based solely on the location, layout, or number of rooms proposed.

The law creates several exceptions to the prohibition of design regulations. Perhaps most importantly for new developments, design standards that are voluntarily consented to by the owners of all the property may be applied if they are imposed as “part of and in the course of” seeking a zoning amendment or a zoning, subdivision, or other development regulation approval. Design standards developed and agreed to by the owners of all affected property can be incorporated into conditional zoning, special use permits, or development agreements. There is debate as to how this provision should be interpreted. Some contend that only design standards proposed by the developer are “voluntary,” while others contend that the landowner, developer, local government, or the neighbors can propose standards as long as it is clear that the owners consent to their imposition. The latter interpretation is reasonable, but prudent local governments will secure an explicit acknowledgment from owners that any design standards applied are indeed voluntarily accepted.

Other specific exceptions to the prohibition listed in the law have to do primarily with preserving historic district regulations, where building design elements have long been a central feature of the regulatory scheme. Building design elements can be regulated in the following circumstances:

1. within designated local historic districts;
2. within historic districts on the National Register;
3. for designated local, state, or national landmarks;
4. where directly and substantially related to safety codes;
5. for manufactured housing; and
6. where adopted as a condition of participation in the flood insurance program.

Definition of Bedrooms and Dwelling Units

The local government regulatory reform bill limits how cities and counties define dwelling units and bedrooms. Section 18 of S.L. 2015-246 (H.B. 44) amends G.S. 153A-346 and 160A-390 to provide that zoning ordinances may not use a definition of a “dwelling unit, bedroom, or sleeping unit” that is more expansive than a definition of these terms used in a statute or rule.

Protest Petitions

Another bill that was nearly adopted in 2013 was enacted this year. S.L. 2015-160 (H.B. 201) abolishes the supermajority protest petition that has been a part of city zoning since 1923. The protest petition, a part of the model Standard State Zoning Enabling Act adopted by most states in the 1920s, provided that if a sufficient number of those directly affected by a proposed rezoning made a timely protest, a three-fourths majority of the city council would be required to adopt the amendment. In North Carolina, the protest had to be filed within two working days prior to the hearing on the rezoning and had to be signed by the owners of 20 percent of the land subject to the rezoning or by the owners of 5 percent of the 100-foot buffer around the property subject to the rezoning.

The repeal sparked more debate in this session of the General Assembly than any other bill affecting land use. Supporters contended that the protest was undemocratic and could thwart the will of a majority of a city council. Opponents contended that the possibility of a protest petition forced a conversation between the owner and neighbors in controversial cases and protected the reliance that owners and neighbors had placed in existing regulations. Although several alternatives were proposed (such as increasing the amount of surrounding land owned by protesters to qualify for a protest petition or decreasing the supermajority required), the repeal was eventually adopted as originally proposed by votes of 81 to 31 in the House of Representatives and 39 to 9 in the Senate.

The repeal applies to city zoning ordinance amendments initiated on or after August 1, 2015. The repeal also applies to provisions for protest petitions in local bills and city charters.

The new law provides that citizens can still present written statements on proposed zoning amendments to the city clerk, who must then provide copies to the city council. If the amendment is a combined legislative and quasi-judicial matter, as with a conditional use district rezoning with a concurrent conditional use permit application, only the names and addresses of the commenters (and not the substance of the comments) are to be provided to the council.

S.L. 2015-160 also includes an amendment to the city council voting statute, G.S. 160A-75, which provides that a failure to vote by a city council member who is present but not excused from voting is automatically counted as an affirmative vote. This law makes that provision inapplicable to votes on amendments to zoning ordinances. So if a city council member who is present fails to vote on a zoning text or map amendment, that vote is not counted as an affirmative vote, thereby allowing abstentions on these votes.

Fracking Preemption

In 2014 the General Assembly adopted a comprehensive statute regarding regulation of oil and gas development, particularly addressing regulation of hydraulic fracturing to allow extraction of natural gas (generally referred to as “fracking”). While the practice has become common in other states, fracking has heretofore not been done in North Carolina. While preliminary studies indicate modest potential gas resources in the state, the 2014 legislation sets the stage for its development.

S.L. 2014-4 created the Oil and Gas Commission to oversee the regulatory program and also provided for a limited preemption of local ordinances regulating oil and gas exploration, development, and production. It created G.S. 113-415.1 to preempt any local ordinance that “prohibits or has the effect of prohibiting” oil and gas operations. If oil and gas activities would be prevented by a local ordinance, the operator can petition the commission to review the matter. While the law presumes that generally applicable regulations (such as setbacks, buffers, and stormwater requirements applicable to other types of uses) are valid, the commission is authorized to preempt a local ordinance upon finding that

1. the ordinance would prohibit oil and gas activity,
2. all state and federal permits have been secured,
3. citizens have had adequate opportunity to participate in the permitting process, and
4. the oil and gas activity will not pose an unreasonable health or environmental risk, the owner has taken reasonable steps to avoid or manage foreseeable risks, and the owner will comply to the maximum extent feasible with applicable local ordinances.

S.L. 2015-264 (S.B. 119), an omnibus technical corrections bill, modifies the 2014 local ordinance preemption provision. Rather than being applicable only to ordinances that prohibit fracking, the revisions to G.S. 113-415.1 apply the preemption to “all provisions” of local ordinances that “regulate or have the effect of regulating” oil and gas activities to the extent that the regulation places any restrictions or conditions on fracking beyond state requirements or that are in conflict with state requirements. If the local regulation does this, it is “invalidated and unenforceable.” If the local development regulation imposes generally applicable setback, buffers, and similar rules to development, the operator may appeal to the Oil and Gas Commission for a preemption using the same standards set forth in 2014. Prior to enactment of this law, several counties had imposed or were in the process of considering moratoria on fracking and similar industrial operations while they considered amendments to their development regulations. Whether such temporary holds on fracking development are preempted by this amendment or are a “generally applicable regulation” subject to preemption by the Oil and Gas Commission on case-by-case appeals remains to be seen.

Permit Conditions

The 2015 technical corrections bill included a provision limiting conditions that may be imposed on special and conditional use permits. Section 1.8 of S.L. 2015-286 (H.B. 765) amends G.S. 160A-381(c) and 153A-340(c1) to provide that conditions cannot be placed on special use permits for which the local government does not have statutory authority to regulate or for which the courts have held to be unenforceable if imposed as a direct regulation. This provision was likely intended to clarify that cities and counties cannot regulate fracking indirectly through permit conditions, but by its terms it is not limited to that situation.

Permit Choice

In 2014 the General Assembly adopted a regulatory reform bill that included a provision addressing situations where the rules for development change between the time a permit application is submitted and a decision is made. Section 16 of S.L. 2014-120 (S.B. 734) created G.S. 143-750 to allow the permit applicant in these situations the choice of which version of the rule or ordinance is to be applied. That law applied to all development permits issued by the state or by local governments, except for zoning permits.

The local government regulatory reform bill adopted in 2015 removes the zoning exception. Section 5 of S.L. 2015-246 (H.B. 44) allows the applicant to choose between preexisting zoning provisions or the amended provisions if zoning rules change while an application is pending. Thus, in this respect, zoning regulations are now treated as are all other state and local development regulations.

Split Jurisdiction

The local government regulatory reform bill also includes a provision apparently intended to address an issue that can arise if a parcel of land being proposed for development lies only partially within a city's planning and development regulation jurisdiction. Section 3 of S.L. 2015-246 creates G.S. 160A-365(b), which pertains to a city development regulation that is to be applied or enforced outside of its territorial jurisdiction. Since a city has no authority to apply a regulation outside its jurisdiction, apparently the only situation in which this would arise is if a project is located partially inside a city jurisdiction and city provisions are also being applied to the portion of the development outside city jurisdiction. According to the new provision, in such a situation the city and the property owner must certify that city rules are not being applied under coercion or that city approval of the portion of the project within its jurisdiction would be withheld without application of the city rules to the portion of the project located beyond city jurisdiction.

Beehives

In addition, the local government regulatory reform bill adopted restrictions on local regulation of beehives. Section 8 of S.L. 2015-246 creates G.S. 106-645, under which county ordinances may not prohibit any person from owning or possessing five or fewer hives. Municipal regulation of hives is allowed, but a city ordinance must allow up to five hives on any parcel within that city's planning jurisdiction. The ordinance may require the hives to be placed on the ground or securely anchored and may require setbacks from the property line or otherwise regulate where on the parcel the hives may be located. A city can also require removal of hives that are not maintained or, if necessary, to protect the public health, safety, or welfare.

Development Agreements

Several modifications were made to the development agreements statute by the local government regulatory reform bill. Section 19 of S.L. 2015-246 amends both the city and county development agreement statutes to remove the minimum size requirement and the maximum term of agreements. Previously, an area subject to an agreement had to include at least twenty-five developable acres (except within brownfield sites), and the agreement could be for no more than twenty years. Now the agreement can cover property of any size, facilitating its use in more

urban settings where smaller parcels are involved in development and redevelopment. The term of the agreement can now be any reasonable term as specified in it. The law also now allows the development agreement to be incorporated (in whole or in part) into a planning, zoning, or subdivision ordinance.

Subdivision Changes

Performance Guarantees

S.L. 2015-187 (H.B. 721) gives notable clarity and restrictions on the authority for performance guarantees outlined at G.S. 160A-372 and 153A-331.

Completion Only

The statutes now explicitly state that the “performance guarantee shall only be used for completion of the required improvements *and not for repairs or maintenance after completion*” (emphasis added). With this new definition, local governments do not have authority under the subdivision performance guarantee statutes to require ongoing maintenance guarantees. In order to require a maintenance guarantee, a local government will need to find authority elsewhere in the statutes. For example, under G.S. 153A-454 and 160A-459, local governments have explicit authority for financial arrangements to ensure adequate maintenance and replacement of storm-water management facilities. In short, performance guarantees are still available to ensure that a developer completes the required roads to set standards, but subdivision authority no longer extends to requiring a maintenance guarantee.

Statutory Menu of Financial Instruments

Under prior law local governments were required to set a menu of acceptable financial instruments from which the developer could choose. The new law sets the menu (the local government cannot narrow or expand this list) to include any of the following:

- surety bond issued by any company authorized to do business in this state,
- letter of credit issued by any financial institution licensed to do business in this state,
- other form of guarantee that provides equivalent security to a surety bond or letter of credit.

The developer still has the option to choose from the statutory menu of assurances. The last option on the menu—some other form of guarantee—leaves the door open for comparable financial instruments to secure the guarantee. This might include cash in escrow, a trust agreement, or some other financial instrument. The new statute does not specify who decides what types of guarantees “provide[] equivalent security to a surety bond or letter of credit.”

Calculation

Per the new statute, a performance guarantee may be up to 125 percent of the estimated cost of completing the improvements. Presumably the additional 25 percent is intended to cover the costs of administration and enforcement as well as inflation.

Extensions

If improvements are not complete as the expiration of a guarantee is approaching, “the performance guarantee shall be extended, or a new performance guarantee issued, for an additional

period until such required improvements are complete.” Given the statutory context and the practical mechanics of performance guarantees, this section appears to obligate the developer to obtain an extension or newly issued financial instrument if the current instrument is set to expire. But the language—“the performance guarantee shall be extended”—could be read to require the local government to allow extensions so long as the developer shows reasonable good faith progress toward completing the improvements.

In the event that a developer fails to meet milestones set through the performance guarantee agreement, and the developer is not making good faith efforts, a local government can call the guarantee and use the funds to complete the unfinished improvements.

If an extension is allowed, the amount of the renewed performance guarantee is capped at 125 percent of the improvements yet to be completed. In other words, the amount must be reduced for improvements that have been completed.

Release

After acknowledgment by the local government that the improvement is complete, the local government must return or release the performance guarantee in a timely manner.

Development Agreements

The new provisions for performance guarantees are extended to apply to development agreements as well.

Riparian Buffers and Subdivision Regulation

S.L. 2015-246 (H.B. 44) creates G.S. 143-214.23A that sets various limits on local regulation of riparian buffers (discussed in greater detail in the environmental section below). Certain changes, though, are specific to subdivision regulation: riparian buffers are to be shown on the recorded plat, and the area of a riparian buffer must count toward lot dimensional standards even if the buffer is held as common area. Under the new rules, city and county subdivision ordinances shall require a riparian buffer within a lot to be shown on the recorded plat, and the area of a lot within the riparian buffer must still count toward any dimensional requirements for lot size. If a riparian buffer is designated as a privately owned common area (e.g., owned by a property owners association), “the local government shall attribute to each lot abutting the riparian buffer area a proportionate share based on the area of all lots abutting the riparian buffer area for purposes of development-related regulatory requirements based on property size.” Dimensional lot requirements include calculations for, among other things, residential density standards, tree conservation area, open space or conservation area, setbacks, perimeter buffers, and lot area.

Environmental Impact Statements (EIS)

Development projects now must be at least ten acres to trigger an environmental impact statement. The State Environmental Policy Act generally addresses state projects, but the act authorizes local governments to require an environmental impact statement for “major development projects.” These are defined to include shopping centers, subdivisions, and other housing developments as well as industrial and commercial projects. Under prior law a project had to be at least two acres to be considered a major development project, but an amendment adopted as S.L. 2015-90 (H.B. 795) raises the defining threshold to ten acres.

Zoning and Subdivision Enforcement

Withholding Permits

Sections 2.(a) and 2.(b) of S.L. 2015-187 state that, unless otherwise authorized by law, a local government may not withhold a building permit or certificate of occupancy in order to compel compliance with a permit or ordinance on another property.

For subdivision enforcement, G.S. 160A-375(a) and 153A-334(a) specifically state that “[b]uilding permits required pursuant to G.S. 160A-417 [and 153A-357] may be denied for lots that have been illegally subdivided.” To be legally subdivided, a lot must have been created as part of a lawful subdivision—one that complies with the procedural and substantive standards of the local ordinance and state regulations.

Community Appearance and Historic Preservation

Tax Credits

The state budget bill (S.L. 2015-241 (H.B. 97)) includes provisions for a new tax credit for qualified historic preservation rehabilitation. The prior version of the preservation tax credit expired at the end of 2014. The new version includes several noteworthy changes, including new credit rates, a credit cap, credit bonuses for certain areas, a hold period, and broader allowance for claiming the credits.

For income-producing properties, the tax credit rate depends on the amount of expense and any applicable bonuses. For project expenses up to \$10 million the tax credit rate is 15 percent; for expenses over \$10 million and up to \$20 million the tax credit rate is 10 percent. A credit bonus of 5 percent is awarded in two situations: for projects located in a development tier one or two area and for projects located on an eligible targeted investment site (the latter defined as historic warehouses, manufacturing facilities, and public or private utility buildings that have been at least 65 percent vacant for the past two years). For income-producing properties, the total tax credit amount for a project is capped at \$4.5 million. A pass-through entity may allocate tax credits to any of its owners pursuant to certain limitations.

For non-income-producing properties, the tax credit rate is 15 percent with the credit amount capped at \$22,500 per parcel.

A tax credit may be claimed against franchise taxes, income taxes, or gross premium taxes, but the tax payer must choose one of these tax types and claim the entire credit against that tax.

The budget bill also includes provisions for the forfeiture of credits if the property is sold or if there are certain changes in ownership in the pass-through entity within five years of completion.

The new tax credit sunsets January 1, 2020.

Preservation Grants

S.L. 2015-277 (S.B. 472) helps to clarify the laws for local economic development. Among other things, it provides explicit authority for local governments to make grants or loans for the rehabilitation of commercial or noncommercial historic structures, whether publicly or privately owned.

To be sure, there are notable statutory and state constitutional limits to grants for private development. For much more detail on the authority and limits for preservation grants, see Tyler Mulligan, *Local Government Economic Development Powers*

'Clarified,' CMTY. & ECON. DEV. IN N.C. & BEYOND (Oct. 26, 2015), <http://ced.sog.unc.edu/local-government-economic-development-powers-clarified>.

Construction Fence Signs

S.L. 2015-246 (H.B. 44) adds language to G.S. 153A-340 and 160A-381 (the statutes granting power for zoning) exempting construction site fence wrap signs from zoning sign regulation. Exempt signs are those affixed to perimeter fencing at a construction site. The exemption lasts until issuance of the certificate of occupancy or twenty-four months, whichever is shorter. Under the new statute, the only advertising that may be displayed on the fence wrap is advertising "sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required." Given the recent U.S. Supreme Court decision in *Reed v. Town of Gilbert* (135 S. Ct. 2218 (U.S. June 18, 2015)), it is unclear if the statute's preferential treatment of certain types of speech would withstand constitutional scrutiny.

Building and Housing Code Enforcement

Code Inspection Requirements

S.L. 2015-145 (H.B. 255) makes a number of changes primarily affecting building code inspections, but a few provisions have broader application.

Inspections

Section 8 of S.L. 2015-145 amends G.S. 160A-412 and 153A-352 to provide that when conducting building code inspections, the inspector is to conduct all inspections requested for each scheduled inspection visit. For each requested inspection, the inspector must inform the permit holder of any work that is incomplete or that otherwise fails to meet the standards of the code on one- and two-family dwellings.

Architect and Engineer Approval and Inspection

Section 9 of S.L. 2015-145 amends G.S. 160A-412 and 153A-352 to require approval of designs and proposals for a component or element in the construction of buildings received from licensed architects and engineers. The submission must be completed under the valid seal of a licensed architect or engineer, with field inspection of the installation or completion of construction performed by a licensed architect or engineer, and that person must sign a written document stating that the inspected component or element is in compliance with the N.C. residential code. If that is done, the inspector has no responsibility to inspect. The statute discharges the city or county inspector from any duties or responsibilities with respect to these components or elements.

Increase Work Excluded from Building Permit Requirements

Section 4 of S.L. 2015-145 increases the threshold for work exempted from building permit requirements from \$5,000 to \$15,000 in single-family residences and farm buildings.

Misconduct by Code Officials

G.S. 143-151.17 allows the North Carolina Code Officials Qualification Board to discipline code officials, including suspending or revoking any and all certificates and demoting any certificate

to a lower level. That law specifies six grounds for taking disciplinary action against an official who

1. has been convicted of a felony against this state or the United States or of a felony in another state that would also be a felony if it had been committed in North Carolina;
2. has obtained certification through fraud, deceit, or perjury;
3. has knowingly aided or abetted any person in practicing contrary to the provisions of Article 9C of Chapter 143 or of the State Building Code or of any building codes adopted by a federally recognized Indian tribe under G.S. 153A-350.1;
4. has defrauded or attempted to defraud the public;
5. has affixed his or her signature to an inspection report or other instrument of service that has not been made by the inspector or under his or her immediate and responsible direction; or
6. has been guilty of willful misconduct, gross negligence, or gross incompetence.

Section 3.(a) of S.L. 2015-145 expands the definition for this last ground for discipline by the Code Qualifications Board by amending G.S. 143-151.8 to provide that is “willful misconduct, gross negligence, or gross incompetence” for a code enforcement official

1. to enforce a code requirement applicable to one area or set of circumstances to other areas or circumstances,
2. to refuse to accept an alternative design or construction method that has been approved by the Department of Insurance or that is allowed in the building code,
3. to enforce a requirement that is more stringent than or otherwise exceeds code requirements,
4. to refuse to accept an interpretation of the Building Code Council, or
5. to habitually fail to supply requested inspections in a timely manner.

Fees

Section 7 of S.L. 2015-145 amends G.S. 160A-414 and 153A-354 to provide that all fees collected for inspections may be used only for support of administration and activities of the inspection department. This provision codifies the general rule set forth in *Homebuilders Ass'n of Charlotte v. City of Charlotte* (336 N.C. 37, 442 S.E.2d 45 (1994)) that reasonable fees may be charged for the costs of administering development regulations, with the amount of the fees not to exceed the costs of administration.

One administratively challenging dimension of this directive is the use of the term “inspection department,” terminology that often has no parallel in local government organizational structure. This new fee provision is in the “Building Inspection” part of the articles of the General Statutes authorizing various planning and development regulation programs. Under G.S. 160A-411 and 153A-351, which authorize “inspection departments,” also included are inspectors responsible for a variety of development regulations (not only building inspectors, but also zoning and housing code enforcement). In many jurisdictions the staff responsible for inspections and field enforcement are housed in various local “departments,” sometimes with building inspectors in one department and zoning inspectors in a different department. On the other hand, staff responsible for other functions, such as long-range planning, GIS administration, or community development, are sometimes located in the same “department” as the inspectors. Some of this organizational confusion would be resolved by the reorganization and clarification of these statutes in the proposed Chapter 160D (discussed later in this bulletin). For

now, though, local government bookkeeping needs to assure that fees collected for inspections and administration of development regulations do not exceed the costs of performing these services.

Building Code Council

Section 2 of S.L. 2015-145 directs the Building Code Council to study procedures and policies for the approval of alternative materials, designs, and methods. Council members are directed to specifically examine the application process, timeline for review, and procedures for appeal of denied applications. A report is to be made to the 2016 session of the General Assembly.

Section 5 of S.L. 2015-145 creates a seven-member residential code committee of the Building Code Council. This committee will review all proposed amendments to the Residential Code for One- and Two-Family Dwellings. The full council may not consider revisions to these codes unless so recommended by the committee. The committee will also consider all appeals and interpretations of the residential code and make recommendations of these to the full council. A similar committee with similar duties and responsibilities is created for all structures except those covered by the residential code.

Section 6 of S.L. 2015-145 requires the Department of Insurance to post all appeal decisions, interpretations, and variations of the code on the Building Code Council website within ten business days of issuance.

Section 4.38 of S.L. 2015-286 (H.B. 765) directs the Department of Insurance, the Department of Public Safety, and the Building Code Council to jointly study how flood elevations and building heights are established and measured in the coastal region. A specific direction is made to consider how height calculation methods could be made more consistent and uniform. The report is to be submitted to the General Assembly by March 1, 2016.

Commercial Buildings

Section 10 of S.L. 2015-145 exempts commercial building projects with a total value of less than \$90,000 and with less than twenty-five hundred square feet of space from the requirement for a professional architectural seal.

Open Air Camp Cabins

S.L. 2015-19 (H.B. 706) directs the Building Code Council to adopt regulations for “open air camp cabins,” defined as having three walls consisting of at least 20 percent screened openings, no heating or cooling systems, occupied less than 150 days per year, and accommodating no more than thirty-six persons. The cabins are to have at least two remote exits (but lighted exit signs are not required), are not required to have plumbing or electrical systems (but the code applies if they do), and may be required to have fire extinguishers (but no sprinkler systems may be required). Pending adoption of the rules, these provisions are to be applied by local code enforcement officers.

Overgrown Vegetation

The local government regulatory reform bill consolidates the municipal provisions on chronic violators of public nuisance and overgrown lot ordinances. Section 1 of S.L. 2015-246 puts both provisions into G.S. 160A-200.1 and applies the same procedures to both situations. Chronic violators are still defined as the owners of property with three or more notices of violation of either a public nuisance or overgrown lot ordinance in the previous year. The city may notify

chronic violators by registered or certified mail that if the property is found in violation the city can, without further notice, remedy the situation and place a lien on the property for recovery of the expenses of doing so.

Public Trust Area Enforcement

County Ordinances in Public Trust Areas

S.L. 2015-70 (H.B. 346) provides that counties may adopt and apply regulations applicable to ocean beaches (the area between the vegetation line and the mean high-water line). This law is discussed in the “Environment” section below.

Municipal Ordinances on Uninhabitable Houses in Public Trust Areas

The local government regulatory reform bill amends the municipal statutes to allow cities to take action to deal with uninhabitable houses on the beach. Section 1.5 of S.L. 2015-246 (H.B. 44) amends G.S. 160A-205 to provide that a city can prohibit, regulate, or abate the situation created by a structure that is on the ocean beach and has been uninhabitable and without water and sewer services for more than 120 days.

Transportation

NCDOT Study

S.L. 2015-217 (S.B. 581) calls on the N.C. Department of Transportation (NCDOT) to study the process and standards for acceptance of subdivision streets dedicated to the public for NCDOT maintenance. Issues to be studied include “(i) whether the process that must be followed is efficient and timely, (ii) whether the minimum right-of-way and construction standards established by the Board of Transportation for acceptance on the State highway system are reasonable, (iii) what the financial impact is on the State and homeowners when subdivision streets are or are not accepted on the State highway system for maintenance, and (iv) any other matters the Department of Transportation deems relevant to the study.”

Due to a variety of factors, the topic of subdivision street maintenance in counties is becoming increasingly significant. The recent recession left many county subdivisions in a bind. For some, the subdivision has been left incomplete with roads unfinished. For others, the property owners association lacks the finances for proper maintenance. At the same time, recent legislative limitations on municipal annexation mean that more subdivision streets are remaining in county jurisdiction, and counties, unlike municipalities, lack general authority to finance and maintain streets. In addition, new amendments (discussed above in the section titled “Subdivision Changes”) end county authority to require maintenance guarantees in order to ensure proper street maintenance before NCDOT accepts a street.

Environment

Riparian Buffers

The local government regulatory reform bill includes provisions to limit local riparian buffer rules. Section 13 of S.L. 2015-246 (H.B. 44) creates G.S. 143-214.23A, effective October 1, 2015, which prohibits cities and counties from enacting or enforcing a riparian setback that exceeds setbacks required to comply with state or federal requirements. An exception is made for

local ordinances adopted prior to August 1, 1997, if the ordinance includes findings that it was enacted for specified purposes beyond the protection of water quality and prevention of excess nutrient runoff. The specified purposes include protecting aesthetics, fish and wildlife habitat, and recreational uses as well as natural shorelines in order to minimize erosion or chemical pollution. In other instances, a local government may petition the Environmental Management Commission for permission to enact a riparian buffer with requirements more exacting than those enforced by the state. A local request must include scientific studies that support the necessity for more stringent buffers.

Cities and counties are also directed not to treat riparian buffers as if they were public property unless they have required an easement or other property right. Privately owned land within buffer areas may be used by the owner to satisfy development regulations, as is discussed in more detail in the “Riparian Buffers and Subdivision Regulation” section above.

Wetlands and Intermittent Streams

Section 4.18 of S.L. 2015-286 (H.B. 765), the omnibus state regulatory reform bill, limits regulations affecting isolated wetlands. The law limits application of state rules on isolated wetlands to “Basin Wetlands and Bogs” and prohibits their application to isolated man-made ditches or ponds. Mitigation requirements cannot be imposed for impacts to isolated wetlands that exceed one acre east of I-95 and one-third of an acre west of I-95. The Environmental Management Commission is directed to amend its rules to establish a coastal, piedmont, and mountain region for purposes of regulating impacts to isolated wetlands.

Section 4.27 of S.L. 2015-286 enacts G.S. 143-214.7C to prohibit requiring mitigation for impacts to intermittent streams except as required by federal law.

Local Regulations

The local government regulatory reform bill includes a provision that prohibits local regulations from requiring compliance with state regulations that are voluntary or Environmental Management Commission rules that have been delayed from taking effect by the General Assembly. Section 2 of S.L. 2015-246 (H.B. 44) prohibits cities and counties from requiring compliance with any such rule, even if such compliance was required as a condition in a previously issued permit or local approval. This restriction applies to current rules, repealed rules, those temporarily on hold due to legislative objection, and those adopted but not yet effective. The principal effect of this law is likely limitation of local action regarding stormwater regulations to protect surface water quality, particularly the long-disputed Jordan Lake rules.

Stormwater

S.L. 2015-149 (H.B. 634) amends G.S. 143-214.7(b2), which defines impervious surfaces for the purpose of stormwater regulations. This law provides that certain gravel areas and trails are not to be considered “built upon” if they meet specified standards.

Section 4.20 of S.L. 2015-286 (H.B. 765) amends G.S. 143-214.7 regarding state and local stormwater management programs. The amendment specifies that calculation of the pre- and post-development runoff anticipated in a one-year 24-hour storm may be calculated using any acceptable engineering hydrological and hydraulic method. It provides that development may be allowed within a required vegetative buffer if stormwater from the entire impervious area is collected, treated, and discharged so that it passes through the vegetative buffer and is managed to comply with state and federal requirements.

Section 4.19 of S.L. 2015-286 directs the Department of Environmental Quality to evaluate the quality of water in the coastal region and the impact of stormwater on water quality there. The department is specifically directed to examine whether the built-upon area can be increased under its low-density stormwater option without harm to water quality. A report of its study is to be made to the Environmental Review Commission by April 1, 2016.

Coastal

Flood Elevations and Building Height Study

As noted in an earlier section, Section 4.38 of S.L. 2015-286 directs the Department of Insurance, the Department of Public Safety, and the Building Code Council to jointly study how flood elevations and building heights are established and measured in the coastal region. A specific direction is made to consider how height calculation methods could be made more consistent and uniform. The report is to be submitted to the General Assembly by March 1, 2016.

Public Trust Area Enforcement

S.L. 2015-70 (H.B. 346) provides that counties may adopt and apply regulations applicable to ocean beaches (the area between the vegetation line and the mean high water line). This area (often referred to as the “dry sand beach”) is privately owned but subject to public trust rights of passage and recreation. Counties are specifically authorized to regulate, restrict, or prohibit placement of equipment, personal property, or debris in this area. This is in response to the practice that had evolved in some areas, such as the Currituck Outer Banks north of Corolla, of placing large tents, umbrellas, and other beach equipment on the beach and then leaving it overnight or abandoning it altogether. This authority had been granted to cities in 2013 (S.L. 2013-384) in response to *Nags Head v. Cherry, Inc.*, a court case holding that the state had exclusive authority to regulate to protect public trust areas. 723 S.E.2d 156, 157 (N.C. Ct. App.), *appeal dismissed*, 366 N.C. 386, 732 S.E.2d 580, and *review denied*, 366 N.C. 386, 733 S.E.2d 85 (2012).

The local government regulatory reform bill amends the municipal statutes to allow cities to take action to deal with uninhabitable houses on the beach. As previously noted, Section 1.5 of S.L. 2015-246 (H.B. 44) amends G.S. 160A-205 to provide that a structure located on the ocean beach that is uninhabitable and has been without water and sewer services for more than 120 days creates a situation that the city can prohibit, regulate, or take action to abate.

Erosion Control Structures

S.L. 2015-241 (H.B. 97), the state budget act, makes two changes to rules under the Coastal Area Management Act affecting regulation of ocean-front shoreline hardening structures. For several decades, state rules have prohibited bulkheads, seawalls, groins, and jetties as measures to deal with beach erosion. Temporary erosion-control structures (typically large sandbags) are allowed to protect imminently endangered structures (generally those within twenty feet of the shoreline).

Section 14.6.(p) of the act directs the Coastal Resources Commission to amend its rules to allow more temporary erosion-control devices. It specifies that the rules must allow these devices if the property involved does not have an imminently endangered structure but is located adjacent to property with temporary devices. Also, the devices may be extended to the property boundaries, and if multiple permits affect a single property, the expiration date for removal of the devices is the latest of any permit. Finally, devices may be repaired or replaced if litigation regarding them is ongoing.

Section 14.6.(r) of the act amends G.S. 113A-115.1 to allow permits for up to six terminal groins (the limit had been four). It further provides that two of the six groins can be permitted only at Bogue Inlet and New River Inlet.

Finally, Section 14.10I of the act directs the Division of Coastal Management to conduct a study of preventing, mitigating, and remediating the effects of beach erosion. The study is to consider methods to prevent erosion and overwash and to renourish and sustain beaches. The report is to be made to the Environmental Review Commission by February 15, 2016.

EIS Limits

The General Assembly adopted the Environmental Policy Act in 1971. This law requires environmental impact analysis to be conducted by state agencies for actions involving a substantial expenditure of state funds or the use of public land when the proposed action would significantly affect the environment. G.S. 113A-4. The law also allows cities and counties to require private developers to conduct an environmental analysis of “major development projects.” G.S. 113A-8. Only a handful of local governments have enacted such local ordinances.

S.L. 2015-90 (H.B. 795) amends several provisions of the state Environmental Policy Act, primarily affecting the state review requirements. The law sets a threshold of \$10 million as a “substantial expenditure” of state funds that triggers the act. It further defines the use of public land that triggers the act as land disturbance that creates substantial, permanent changes in the land that are greater than ten acres.

Department Reorganization

Section 14.30 of S.L. 2015-241 (H.B. 97), the state budget bill, moves a number of nonregulatory programs from the Department of Environment and Natural Resources (DENR) to the Department of Cultural Resources (DCR). State parks, the State Zoo, state aquariums, and the Natural Science Museum are all transferred, along with associated staff, authorities, boards, and commissions. The Clean Water Management Fund and the Natural Heritage Program also were included in the transfer. The names of the departments were adjusted to reflect this transfer. DENR is now the Department of Environmental Quality, and DCR is now the Department of Natural and Cultural Resources.

Housing, Community Development, and Economic Development

Grants and Credits

The state budget bill (S.L. 2015-241 (H.B. 97)) includes provisions for notable economic development grants and tax credits. As discussed above, a new tax credit for qualified historic preservation rehabilitation was authorized with new limits and requirements, and local grants and loans for historic preservation were authorized as well.

The Job Development Investment Grants program (JDIG) received funding of almost \$58 million for fiscal year 2015–16 and almost \$72 million for fiscal year 2016–17. The JDIG program is managed by the state’s Economic Investment Committee and provides sustained annual grants to new and expanding businesses.

Tax credits to support the film industry expired at the end of 2014. In their place the General Assembly established the Film and Entertainment Grant Fund (S.L. 2014-100). Film production companies apply to the Department of Commerce for such grants. The 2015 state budget bill allocated \$30 million for each of the next two fiscal years.

For many years the renewable energy industry enjoyed a tax credit for investing in renewable energy systems in North Carolina. That tax credit, paired with the Renewable Energy Portfolio Standard for electric utilities, was a major driver for making North Carolina a leading state for solar energy investment and production. The tax credit law included a provision to expire at the end of 2015, and the General Assembly took no action to continue the credit.

Municipal Service Districts

Section 15.16B of the state budget bill sets new limitations on municipal service districts (including business improvement districts). The tax rate for a municipal service district must be set to meet the reasonably expected needs of the district but with no accumulation of excess funds. And when a municipality contracts with a private entity to provide services or functions of the municipal service district, the municipality now must follow certain procedures before awarding such a contract. The municipality must

- solicit input from the residents and owners as to the needs of the district,
- use a bid process to select the private entity,
- hold a public hearing,
- require annual reporting from the contracting entity,
- specify the scope of services to be provided by the contracting entity, and
- limit the contract to five years.

It is worth noting that Section 15.16B of S.L. 2015-241 also calls for a legislative study committee to study the “feasibility of authorizing property owners within a municipal service district to petition for removal.”

For more on the general authority and requirements of municipal service districts, as well as the new statutory changes, see Kara Millonzi, *Changes to Municipal Service District (MSD) Authority*, COATES’ CANONS: NC LOCAL GOV’T L. BLOG (Oct. 19, 2015), <http://canons.sog.unc.edu/?p=8264>.

Jurisdiction

No significant changes were made in the General Statutes regarding annexation or extraterritorial planning and development regulation jurisdiction in 2015. However, the General Assembly did continue its recent trend of making changes in jurisdiction for individual cities.

Specified territory was annexed into the following municipalities: Cary (S.L. 2015-77); Clayton (S.L. 2015-79), Dunn and Holly Ridge (S.L. 2015-175), Lenoir (S.L. 2015-129), and Mint Hill (S.L. 2015-131). Deannexations were made for Angier (S.L. 2015-139), Lake Lure, subject to referendum (S.L. 2015-140), Murphy (S.L. 2015-81), Polkton (S.L. 2015-78), and Weldon (S.L. 2015-132). The city boundary for Clayton was moved (S.L. 2015-83) and property transferred from Locust to Stanfield (S.L. 2015-257). Property was also transferred from the extraterritorial area of Clayton to that of Wallace (S.L. 2015-171). Durham was granted authority to annex adjacent streets (S.L. 2015-82). The maximum area of satellite annexations was increased for Archdale and Franklin (S.L. 2015-81) and for Wilson Mills (S.L. 2015-80).

Statutory Reorganization: Proposed 160D

A bill that would reorganize the entire body of statutes on city and county planning and development regulation was introduced but not enacted in 2015. The bill was proposed by the North Carolina Bar Association to create a new platform with consensus changes to modernize these statutes.

The bill draft was produced by the Bar Association's Zoning, Planning, and Land Use Law section, a group of attorneys who represent local governments, developers, and neighbors. The bill draft was circulated in October 2014 to some four thousand attorneys, industry groups, planners, zoning officials, and others. Updated drafts that incorporated comments from the reviews were circulated in January and again in February 2015. House Bill 548, sponsored by Representatives Paul Stam (R-Wake), Dan Bishop (R-Mecklenburg), Rob Bryan (R-Mecklenburg), and Susi Hamilton (D-New Hanover), was introduced on April 2, 2015. In late April the House Judiciary IV Committee approved several refinements to the bill and then proposed to create an eighteen-member North Carolina Zoning Modernization Legislative Task Force to further study the bill and report back in 2016. The Senate subsequently decided not to pursue a formal task force but rather to review the proposal informally. Since the bill passed the House prior to the "crossover deadline" at the end of April, it is eligible for action in 2016.

The bill now under consideration does the following:

1. consolidates city and county planning and development statutes (retains intentional differences, such as agricultural exemption for county zoning);
2. reorganizes existing statutes into a more accessible and logical organization with fourteen articles, as follows:
 - Article 1 consolidates provisions applicable to all development regulations (definitions, vested rights, moratoria, conflicts of interest),
 - Article 2 consolidates provisions of geographic jurisdiction for planning and development regulations,
 - Article 3 consolidates provisions for boards and commissions,
 - Article 4 consolidates administrative provisions (staff, permit processing, enforcement, quasi-judicial procedures),
 - Article 5 consolidates provisions on planning,
 - Article 6 consolidates provisions on the process for adoption, amendment, and repeal of development regulations,
 - Articles 7 to 13 retain specialized provisions in individual Articles (such as zoning, subdivision, building inspection, housing codes) while consolidating related provisions together,
 - Article 14 consolidates provisions on judicial review;
3. establishes uniform, consistent procedures to be followed by all cities and counties;
4. clarifies confusing, dated statutory language;
5. makes numerous consensus reforms but leaves substantial policy initiatives to other bills.

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MEMORANDUM

To: Pender County Planning Board

From: Planning Staff

Date: February 2, 2016

RE: Collector Street Plan and Comprehensive Plan Updates

Staff will continue to provide you with an update at each Planning Board meeting regarding the Collector Street Plan and Comprehensive Land Use Plan update process. Below is a summary of the status of each plan update since our last discussion.

Pender County Collector Street Plan

Planning Staff continues to work in coordination with the Wilmington MPO and Stantec on the Collector Street Plan. The Collector Street Plan is in the final stages of draft form. A draft document has been provided to all Steering Committee members and is being reviewed by both Staff and the Committee. All comments for this document are due January 29, 2016 and input is requested at this time.

A public meeting was held on January 21, 2016 with nearly forty people in attendance for the drop in session. Presented to the public were; draft collector roadway maps, cross sections, as well as, bicycle and pedestrian recommended routes. There were many discussions and recommendations to incorporate into the planning documents including; amending the proposed roadway alignments in several locations and the interest to include bicycle and pedestrian elements in the Coastal Pender region cross sections on proposed new collectors.

Steps for adoption include:

- | | | |
|----------------------------|---|-------------|
| • <i>February 16, 2016</i> | Public Hearing at the Board of County Commissioners | 7PM Meeting |
| • <i>March 1, 2016</i> | Planning Board for Recommended Adoption | 7PM Meeting |
| • <i>March 7, 2016</i> | Final Adoption for Board of County Commissioners | 4PM Meeting |

Comprehensive Land Use Plan

Planning Staff continues to work on preliminary planning and information inventory in preparation for a consultant beginning work on the Comprehensive Land Use Plan. This information includes:

- Definition of small area plan boundaries
- Existing plan inventory
- Goals and policies matrix
- Existing land use survey

At this time, Pender County is working on a contract and scope of agreed upon work with Stantec, who is anticipated to begin work once these documents can be finalized and the Board of Commissioners approves the contract. It is anticipated that this will be up for approval on the Board's meeting agenda for **March 7, 2016**.

On August 17, 2015 Planning Staff learned that Pender County has been selected to receive \$10,000 in Partners for Green Growth funding from NC Wildlife Resources Commission (NCWRC) to use towards incorporation of conservation methods into the update of the Comprehensive Land Use Plan. A finalized contract for funding agreement with NCWRC has been executed.

A brief summary of the Partners for Green Growth funding is as follows:

- The purpose is to fund land use planning projects that address conservation of priority wildlife habitats. Our proposal is to use funding to develop and incorporate a conservation component into the Comprehensive Land Use Plan (in conjunction with the Plan update).
- The funding amount is \$10,000.
- Invited full applications are due September 10 (non-competitive).
- 50% non-federal in-kind match is required. Our proposal is to calculate match using:
 - Staff time calculated at approximately \$20.00 per hour: \$2,500 (125 hours) for existing conditions inventory, site visits, conservation data analysis, coordination with consultant and NC Wildlife Resources Commission for integration of final conservation product within Comp Plan
 - 7.5 percent of County payment to consultant (total contract will be \$100,000): \$7,500 for conservation data analysis and conservation policy recommendation for inclusion into Comprehensive Land Use Plan
- Work must be completed within a year.
- Funds will be distributed as reimbursement (by September 16, 2016).
- Pender County is eligible for 40 hours of technical assistance from NC Wildlife Resources Commission as part of the funding.

Planning Staff appreciates your input throughout the process for these plan updates.