

APPLICATION PACKAGE

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

Variance Application Package for Dan Owen Drive Pump Station

Case Number: VAR 2021-08

Application Type: Variance

Applicant: Old North State Water Co, LLC

Owners: Old North State Water CO, LLC

Location: 458 Dan Owen Drive - Hampstead, NC

Property ID #(s): 3292-05-8598-0000

Description: ONSWC is requesting a variance to either the front setback requirements for a new lift station on the Wastewater Treatment Facility property, or the Type C buffer requirements so that a fence would not need to be constructed as part of the buffering for the lift station.

Current Zoning: RP, Residential Performance

Board of Adjustment Meeting

Wednesday, December 15, 2021

Board of County Commissioners/Planning Board Meeting

N/A

Application Materials

Application Package

Project Narrative

Site Plan

Pender County Planning and Community Development



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Variance Submission

Applications will be considered for the Board of Adjustment hearing and reviewed by Staff only when deemed complete. The application will be regarded as incomplete until the following items are received by the Planning and Community Development Staff.

1. **Pre-submittal Meeting** 10/25/21
Date of Meeting
2. **Signed Application**
3. **Payment**
\$250
4. **Narrative**
A narrative shall be submitted to include the specific Ordinance Section for the requested variance.
5. **Digital Submission**
For all documents submitted in paper copy, bring a digital copy with paper submission.
6. **Adjacent Property List**
The applicant shall provide a list of the owners of all properties located within 500-feet of the perimeter of the project bounds.
7. **Adjacent Property Envelopes**
The applicant shall provide a set of business envelopes addressed to each owner of all properties located within 500-feet of the perimeter of the project bounds accompanied with the amount of postage required for first class postage.

I certify that all information presented in this application is accurate to the best of my knowledge.

Signature of Applicant

Date

11/1/21

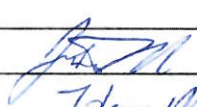
Printed Name

John M. Donald
Manager

Staff Initials: _____

Date: _____

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA	Date	
Application Fee	\$	Invoice Number:	
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	OXD NORTH STATE WATER CO, CCC	Owner's Name:	SAME
Applicant's Address:	3212 6 th AVE SOUTH	Owner's Address:	
City, State, & Zip	BIRMINGHAM, AL 35222	City, State, & Zip	
Phone Number:	205-326-3200	Phone Number:	
Email Address:	jmcdovald@integrwater.com	Email Address:	
Legal relationship of applicant to landowner: SAME			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3292-05-858000 3292-05-6741	Total property acreage:	5.41
Zoning Classification:	RP	Variance Size:	0.06 ACRES
Variance Location & Address	45E DAN OWEN DR. HAMPSHIRE		
Describe Variance and amount or type requested:	REDUCE BUFFER & DELETE FENCING FROM LIFT STATION		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	
Applicant's Name Printed		Date:	
Owner's Signature		Date:	11/1/21
Owner's Name Printed	John McDonald - manager	Date:	
NOTICE TO APPLICANT:			
<ol style="list-style-type: none"> 1. The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements. 2. All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval. 3. An application for a variance shall be submitted in accordance with application requirements. 4. Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage. 5. The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues. 6. Applicant must also submit the information described in the Variance Checklist provided below. 7. Applicant or agent authorized in writing must attend the public hearing. 8. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing. 			
OFFICE USE ONLY			
<input type="checkbox"/> VA Fees \$250	Total Fee Calculation \$		
Payment Method :	Cash : <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input type="checkbox"/> Check # _____
Application received by:		Date:	

Application completeness approved by:		Date:
Date scheduled for public hearing:		

PROJECT NARRATIVE

Justification for Old North State Water Company, LLC's Requests for a Variance and Revision to the Special Use Permit for the Majestic Oaks Wastewater Treatment Facility

I. Introduction

Applicant Old North State Water Company, LLC (“ONSWC”) provides this Justification in support of its request for a variance pursuant to Section 3.14 of the Pender County Unified Development Ordinance (“UDO”) so that a sanitary sewer lift station (“Lift Station”) may be constructed on the property inside the Majestic Oaks subdivision where the Majestic Oaks wastewater treatment facility (“Wastewater Treatment Facility”) is located on property zoned Residential Performance (“RP”) (“Wastewater Treatment Facility Property” or “Property”). A site plan showing the location of the Lift Station on the Wastewater Treatment Facility Property is attached hereto as Exhibit A. The Majestic Oaks Wastewater Treatment Facility consists of a wastewater treatment plant, wastewater collection system, disposal areas, and lift stations, as well as storage and disposal lagoons. This Justification also supports ONSWC’s request for a revision to its existing Special Use Permit relating to the Majestic Oaks Wastewater Treatment Facility.

There are two parcels associated with ONSWC’s request for a variance and a revision to its Special Use Permit, totaling approximately 5.39 acres. The subject properties are located along the south side of Dan Owen Drive (private) near the terminus of Chuckanut Drive (private) and the terminus of Milne Way (private). The parcels are approximately 0.5 miles east of the intersection of US Highway 17 and NC Highway 210 within the Majestic Oaks subdivision in the Topsail Township. The subject properties are further identified by Pender County PINs: 3292-05-6741-0000 and 3292-05-8598-0000.

II. Request for a Variance

A. Need for a Variance

ONSWC seeks relief and a variance as to either (i) the front setback requirement for the new Lift Station on the Wastewater Treatment Facility Property so that the fence for the Lift Station may be located 7 feet from the front property line, or (ii) the Type C buffer requirements so that a fence is not required to be constructed as part of the buffer around the Lift Station. Section 5.3.5.C(2) (Sewage Lift Stations) of the UDO requires a Type C buffer in accordance with Article 8 of the UDO around a sewage lift station. It is ONSWC’s understanding that the County interprets the Type C buffer requirements to require the setback distances to be measured from the fence surrounding the Lift Station, rather than the Lift Station components themselves. The Lift Station will be flush with grade upon completion of construction, and therefore, it will have no visual impact off-site. As such, a variance to either reduce the front setback to 7 feet, or to eliminate the requirement of installing a fence in the buffer (so that the front setback will not be measured from the fence) will have no adverse visual effect or otherwise on Dan Owen Drive or the Majestic Oaks subdivision. To the contrary, the granting of a variance for the Lift Station will benefit the Majestic Oaks community, as it will allow for the decommissioning of the existing Majestic Oaks wastewater treatment plant so that the wastewater may be treated outside of the

Majestic Oaks community (in the Pluris Hampstead state-of-the-art membrane bio reactor (“MBR”) wastewater treatment plant in Hampstead).

The only part of the Lift Station that will be above grade will be the control panel and the by-pass pumping stubs. If the Board of Adjustment grants a variance to the fencing requirement—instead of the setback requirement—ONSWC is willing to install fencing around the above-grade components and will landscape the entire area so that even the structures that are flush with grade will be well screened.

A variance is needed due to the fact that the existing force main line and the existing Wastewater Treatment Facility infrastructure make it exceedingly difficult to site the Lift Station farther back on the Wastewater Treatment Facility Property (i.e., farther away from the front property boundary). The existing storage and infiltration lagoons, along with the corresponding underdrain piping and other appurtenances, would make excavation of the wet well location technically problematic if the location were to be shifted away from the road and toward the rear of the Property.

B. Compliance with the Requirements for a Variance

ONSWC’s request for a variance meets the following requirements:

A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;

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

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

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

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

B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

1. Compliance with Part A

There would be unnecessary hardship if the UDO provisions were strictly applied to the Wastewater Treatment Facility Property and the Wastewater Treatment Facility infrastructure. Also, the hardship results from conditions that are peculiar to the Wastewater Treatment Facility Property.

There is substantial oversight and regulation of the Majestic Oaks Wastewater Treatment Facility by both the North Carolina Utilities Commission (“NC Utilities Commission”) and the Division of Water Resources, a division of the North Carolina Department of Environmental Quality (“NCDEQ”). The construction and operation of the Lift Station will allow for the decommissioning and removal of the existing Majestic Oaks wastewater treatment plant, which has a problematic regulatory history, removal of the Wastewater Treatment Facility infrastructure located on the Property, and removal of a second infiltration basin located nearby which, according to NCDEQ staff, is near failing and is subject to rupturing.

It is important that construction of the Lift Station be completed expeditiously in order to solve the various existing environmental compliance issues associated with the Wastewater Treatment Facility before further environmental issues occur. If the Lift Station was required to meet the 30-foot front setback requirement and therefore had to be located closer to the existing lagoons, there would be the risk that the lagoons and the underdrain system that surrounds them would be undermined and compromised.

It is necessary to keep the existing Majestic Oaks wastewater treatment plant in operation until construction of the Lift Station is completed and it is placed in service. However, the plumbing for the wastewater treatment plant has been altered to allow the flow of wastewater to be redirected to the Pluris Hampstead MBR wastewater treatment plant in Hampstead in order to alleviate the more pressing environmental issues, to allow the lagoons to be dewatered, and to reduce the risk of a failure. This temporary solution was reached with NCDEQ staff, who are enthusiastic about the removal of the existing wastewater treatment plant, and has been approved by the NC Utilities Commission.

2. Compliance with Part B

The requested variance is consistent with the spirit, purpose, and intent of the UDO, and will ensure that the public safety is secured and substantial justice is achieved. By granting the variance, the Board of Adjustment will allow the construction of the Lift Station to proceed so that the existing wastewater treatment plant can be decommissioned and removed. The decommissioning and removal of the wastewater treatment plant will result in the removal of an environmental hazard from the Majestic Oaks subdivision and will end the problematic disposal of effluent in facilities in close proximity to houses. Such an outcome will directly and materially benefit all of the residents of the Majestic Oaks subdivision.

III. Request for a Revision of Existing Special Use Permit

A. Need for a Revision to the Special Use Permit

Upon the granting of the requested variance, ONSWC submits this application to revise the current Special Use Permit for the Majestic Oaks Wastewater Treatment Facility Property in order to

accommodate the new Lift Station. The initial Special Use Permit for the Wastewater Treatment Facility Property was issued by the Pender County Board of Commissioners on June 18, 2007 (“2007 Special Use Permit”) (Case No. 07-06-18-19) to Deuce Investments, Inc. (“Deuce”) for Deuce to construct and operate a wastewater treatment plant on the RP-zoned property located east of US Highway 17, along Dan Owen Drive. Deuce is the predecessor-in-interest to Hampstead Land Group, LLC (“HLG”). HLG subsequently sold and conveyed the Majestic Oaks Wastewater Treatment Facility to ONSWC. The 2007 Special Use Permit is attached hereto as Exhibit B.

A revised Special Use Permit was issued for the Wastewater Treatment Facility by the Pender County Board of Commissioners on November 29, 2018 (“2018 Special Use Permit”) (Case No. SUP-2018-5). The 2018 Special Use Permit is attached hereto as Exhibit C. The 2018 Special Use Permit authorized ONSWC to expand the service district of the Wastewater Treatment Facility and to continue operation of the Wastewater Treatment Facility.

At the present time, given the various environmental issues associated with the Wastewater Treatment Facility, it is evident that the overwhelming consensus by the regulators (NCDEQ and the NC Utilities Commission), along with the Majestic Oaks community, favors the decommissioning and removal of the Wastewater Treatment Facility. In order to do so, the Lift Station must be constructed to send the wastewater flow currently treated by the Majestic Oaks wastewater treatment plant to the Pluris Hampstead MBR facility.

B. Compliance with the Requirements for the Revision to the Special Use Permit

ONSWC’s request for a revision to the Special Use Permit meets the following requirements:

- 1. The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district.*

The zoning district where the Wastewater Treatment Facility is located—Residential Performance (RP)—allows the construction and operation of wastewater infrastructure, as do all other zoning districts. Without lift stations, it would be impossible to provide wastewater service to these areas without individual septic systems.

- 2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property.*

Construction of the Lift Station and the ability to permanently route wastewater flow to Pluris Hampstead’s MBR wastewater treatment plant will enable the decommissioning and removal of the existing wastewater treatment plant. This modification will beneficially improve all of the items listed in this criterion. The requested revision to the Special Use Permit will not impair the integrity or character of the surrounding or adjoining districts, and it will not adversely affect the safety, health, moral, or welfare of the community or neighbors of the property. In fact, the construction of the Lift Station, which will enable the removal of the wastewater treatment plant, will improve the integrity and character of the Majestic Oaks community and the safety, health, moral, or welfare of the community. The removal of the wastewater treatment facility will

positively affect the Majestic Oaks community because the issues related to sound, odor, and drainage from the facility will be eliminated.

3. The proposed use shall not constitute a nuisance or hazard.

Modification of the 2018 SUP to allow construction of the Lift Station will enable all wastewater flow to be provided to Pluris Hampstead's advanced MBR plant in Hampstead and will thereby resolve the environmental problems of the Wastewater Treatment Facility.

4. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners.

Pluris Hampstead's MBR wastewater treatment plant has the capacity to treat wastewater flowing from the developments that are connected to the Majestic Oaks Wastewater Treatment Facility. The construction of the Lift Station will allow reasonable and environmentally complaint wastewater service to be provided to the Majestic Oaks subdivision and other developments in the County.

5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided.

Due to the reduction in size of the facilities currently on the Wastewater Treatment Facility Property, including the removal of the existing Majestic Oaks wastewater treatment plant, the overall footprint of the Wastewater Treatment Facility will be substantially reduced.

6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads.

The Lift Station will have similar access to the other existing lift stations in the Majestic Oaks subdivision. The existing lift stations are usually visited by technicians on a weekly basis, and they are monitored remotely and constantly with telemetry systems, as required by NCDEQ regulations.

7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

The Lift Station will comply with all of the current regulations for the district upon the granting of the requested variance.

8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

The Lift Station will be located on the current Wastewater Treatment Facility Property, which is much larger than is necessary for the Lift Station. As stated previously, the Lift Station will not adversely affect the Majestic Oaks subdivision and will instead benefit the entire community, as it will allow for the removal of the existing wastewater treatment plant and associated ponds. In summary, the construction of the Lift Station will be a great benefit to the community.

SITE PLAN(S)

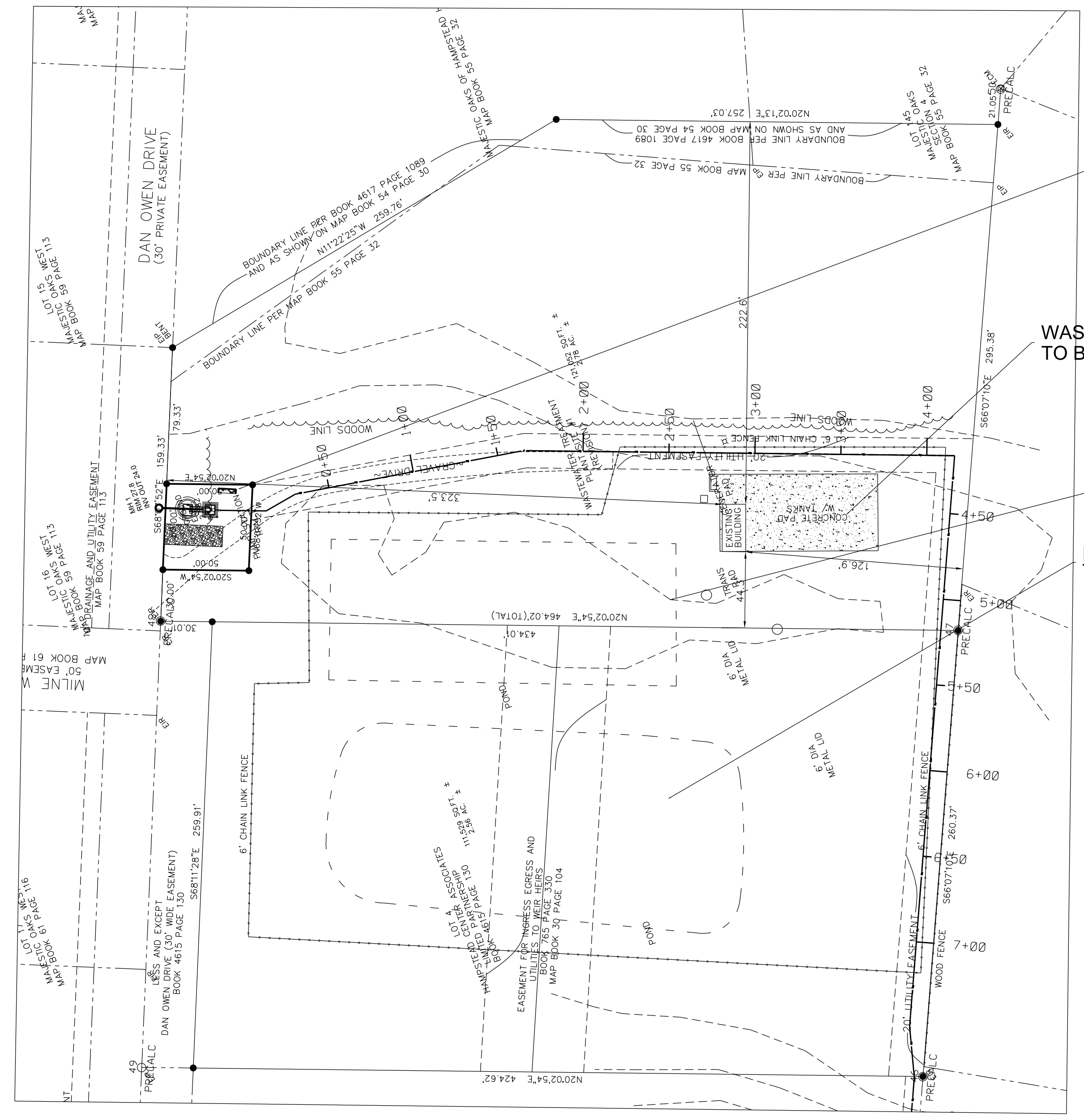
8 7 6 5 4 3 2 1

D

C

B

A



PROPOSED LIFT STATION
FRONT SETBACK = 7'
SIDE SETBACK = >10'
RAER SETBACK >25'

WASTE WATER TREATMENT PLANT
TO BE DECOMMISSIONED AND REMOVED

5 DAY UPSET POND
TO BE DRAINED AND FILLED

EXISTING HIGH RATE INFILTRATION BASIN
TO BE DRAINED AND FILLED

CONTROL PANEL
(ABOVE GRADE)
LEADING EDGE = 30'
FROM FRONT PROPERTY LINE

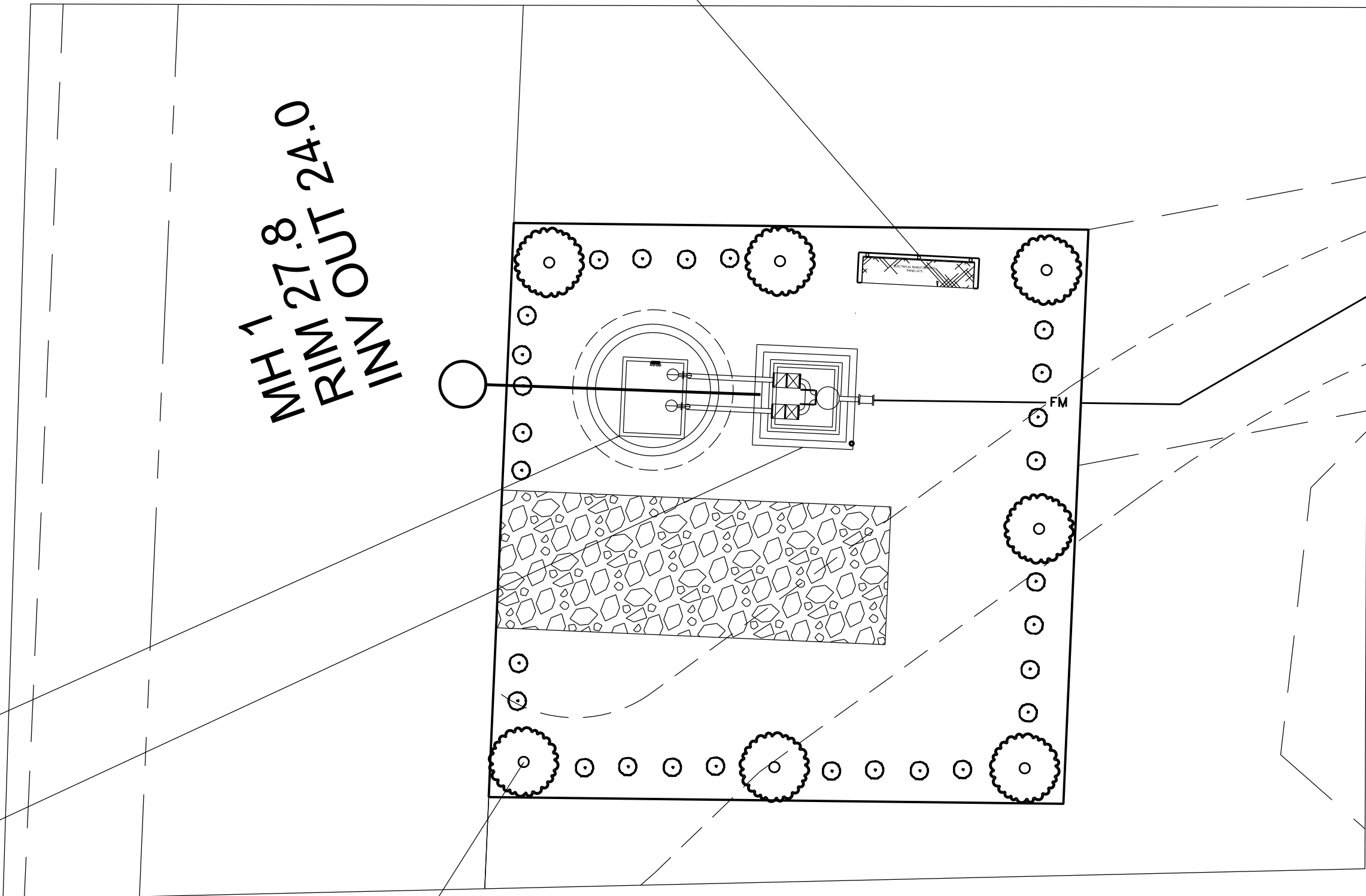
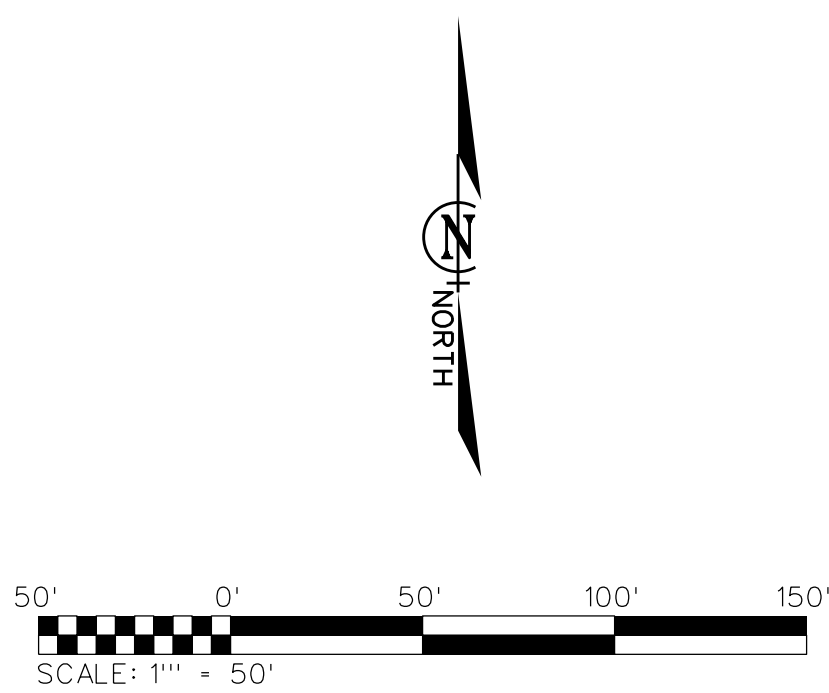
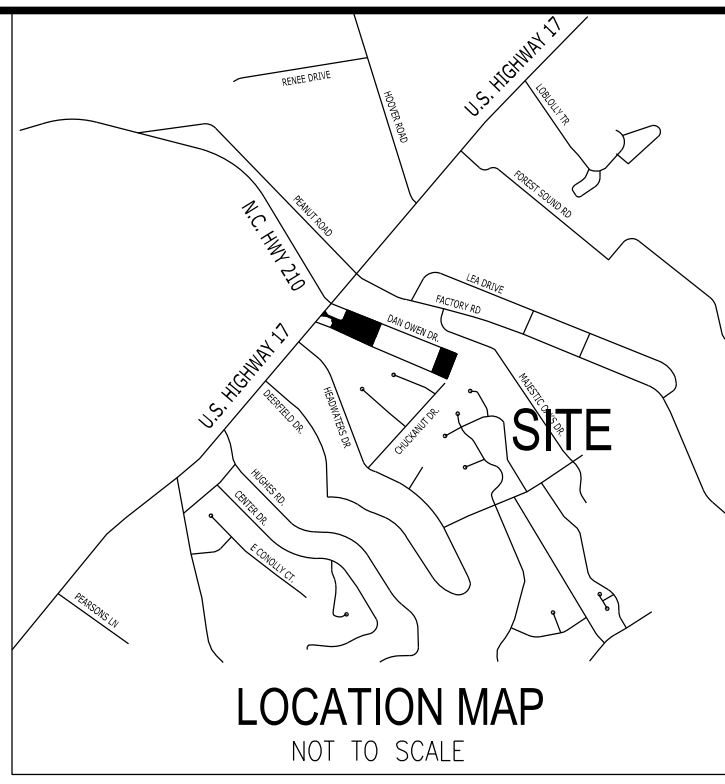
PROPOSED WET WELL
FLUSH WITH GROUND
7' SETBACK FROM FRONT
PROPERTY LINE

VALVE VAULT

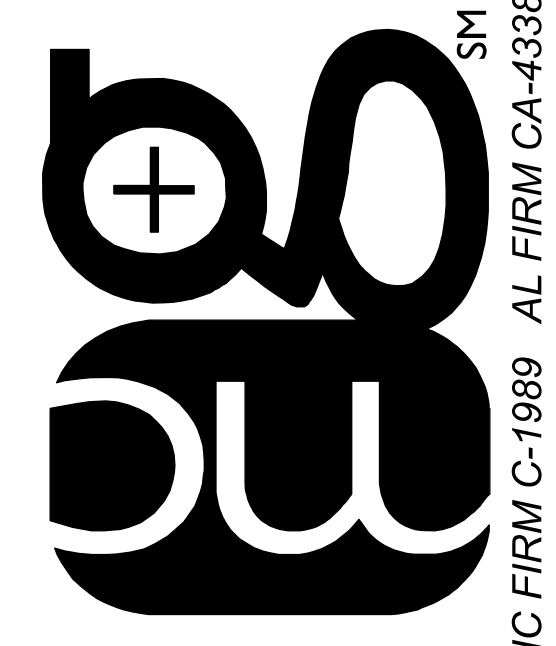
SITE LANDSCAPING
7 CANOPY TREES
27 UNDERSTORY TREES

OLD NORTH STATE WATER
COMPANY, LLC

SPECIAL USE PERMIT
AND VARIANCE PLAN



Michael C. Gallant PE, PA
Engineering / Consulting / Design
GALLANTMC@YAHOO.COM
PO BOX 4039 SURE CITY, NC 28445
910.448.1046

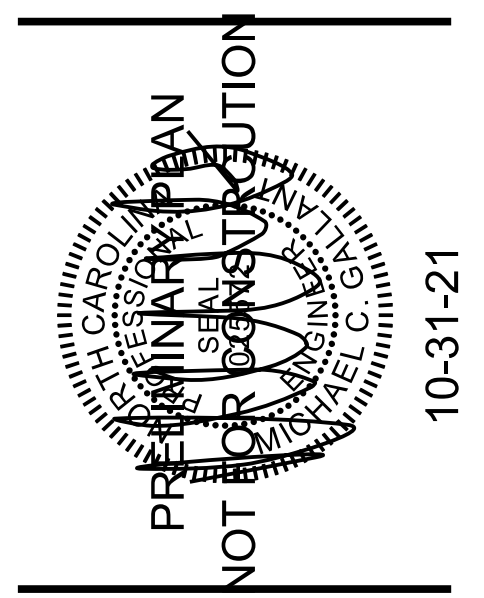


NC FIRM C-1989 AL FIRM CA-4338-E NC REG NO. 25572 AL REG NO. 32178

OLD NORTH STATE WATER COMPANY, LLC
3212 6TH AVENUE
BIRMINGHAM, AL 35222

C1.0

NOTE: ANY PLAN THAT DOES NOT BEAR AN
ENGINEER'S SEAL, SIGNATURE AND DATE IS A
PRELIMINARY PLAN AND NOT RELEASED FOR
CONSTRUCTION



D

C

B

A

8 7 6 5 4 3 2 1