



## Pender County Request for Board Action

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**TO:** Board of County Commissioners  
**FROM:** Travis Henley  
**DATE:** March 14, 2022  
**SUBJECT:** SUP 2022-26

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### **SUMMARY:**

Old North State Water Company, LLC, applicant and owner, is seeking a revision to an existing Special Use Permit for the Majestic Oaks Wastewater Treatment Facility. Specifically, the request is to accommodate an existing Sewage Lift Station that was constructed prior to a needed revision to the existing Special Use Permit. The subject property is located within the Majestic Oaks subdivision on the southern side of Dan Owen Drive near the terminus of Milne Way, approximately 0.5 miles east of the intersection of US HWY 17 and NC HWY 210 in the Topsail Township. There are two tracts totaling approximately 5.39 acres of land associated with this request and may be further identified by Pender County PINs 3292-05-6741-0000 and 3292-05-8598-0000.

### **ACTION REQUESTED:**

Consideration of the Special Use Permit Request

### **ATTACHMENTS:**

1. Staff Report
2. Application
3. Narrative
4. VAR 2021-08 Approval Letter
5. Site Plan
6. Board Action Form
7. Letter Notice Of Approval

## STAFF REPORT FOR SUP 2022-26 SPECIAL USE PERMIT APPLICATION

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Nov 04 2022

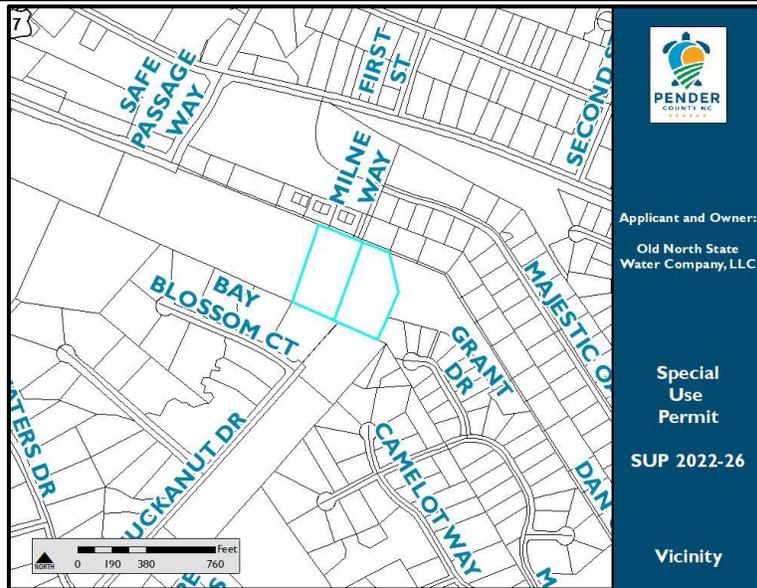
APPLICATION SUMMARY	
Case Number	SUP 2022-26
Hearing Date	March 14, 2022 BOCC
Applicant	Old North State Water Company, LLC
Property Owner	Old North State Water Company, LLC
Parcel Identification Number	3292-05-8598-0000 & 3292-05-6747-0000
Acreage	±5.39
Township	Topsail
Zoning District	RP, Residential Performance
Pender 2.0 Future Land Use Category	Low Density Residential

**SPECIAL USE PERMIT REVISION PROPOSAL**

Old North State Water Company, LLC, applicant and owner, is seeking a revision to an existing Special Use Permit for the Majestic Oaks Wastewater Treatment Facility. Specifically, the request is to accommodate an existing Sewage Lift Station that was constructed prior to a needed revision to the existing Special Use Permit.

**LOCATION**

The subject property is located within the Majestic Oaks subdivision on the southern side of Dan Owen Drive near the terminus of Milne Way, approximately 0.5 miles east of the intersection of US HWY 17 and NC HWY 210 in the Topsail Township.



# PROPERTY DESCRIPTION

There are two tracts totaling approximately 5.39 acres of land associated with this request and may be further identified by Pender County PINs 3292-05-6741-0000 and 3292-05-8598-0000. The subject properties are located within the Majestic Oaks Subdivision and currently serves as the Majestic Oaks Wastewater Treatment Facility. The treatment facility was approved through a Special Use Permit by this board in June 2007 and subsequently amended in 2017 and 2018. Existing infrastructure on the subject properties includes, but not limited to, a wastewater treatment plant, wastewater collection system, disposal areas, lift stations, and storage/disposal lagoons.

*Below: Aerial Photograph of Subject Property*



Applicant and Owner:  
Old North State  
Water Company, LLC

Special  
Use  
Permit  
SUP 2022-26

Aerial

# SPECIAL USE PERMIT DESCRIPTION

According to the applicant’s submitted narrative, Old North State Water Company, LLC (hereafter ONSWC) is requesting a revision to the existing Special Use Permit to accommodate the already constructed lift station within the Majestic Oaks Wastewater Treatment Facility. The applicants submitted narrative can be found in the Board’s packet as Attachment I.

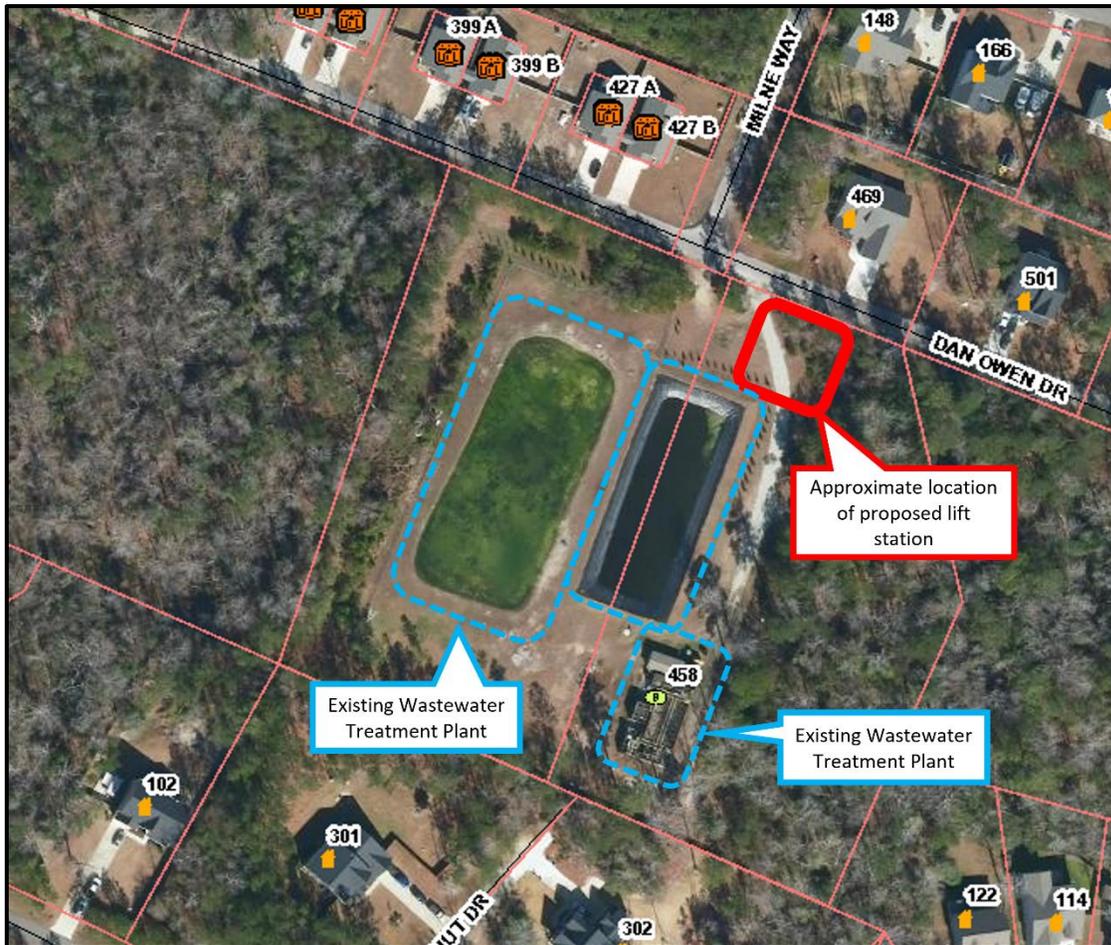
Planning staff was informed in October of 2021 that a lift station was constructed on the subject properties and determined that this construction took place prior to obtaining any zoning approval. As a result, code enforcement measures have been taken to place the subject property under a Notice of Violation. At their January 19, 2022 meeting, the Pender County Board of

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Nov 04 2022



Special Use Permit was approved if no zoning approval had been issued, however due to various Executive Orders relating to COVID-19, the Special Use Permit is still considered valid at this time. The graphic below also shows the different components of the existing wastewater treatment facility and its proximity to the newly constructed lift station.

**Below: Approximate Location of Proposed Lift Station**



According to the applicant’s submitted narrative, engineering challenges warranted the approved variance request for relief from Buffering and Zoning District Dimensional Requirements. Specifically, the applicant has indicated these challenges stem from the location of infrastructure associated with the existing wastewater treatment facility.

Since the applicant has been granted a variance, a revision to the existing Special Use Permit for the Wastewater Facility is now required to allow the project to move forward. A Special Use Permit revision is required regardless of whether or not the Variance application had been approved. Additionally, the applicant has included in their narrative that the granting of the variance allows for the decommissioning of the existing Majestic Oaks wastewater treatment plant so wastewater could be treated outside the parameters of the Majestic Oaks subdivision.

Prior to issuance of final zoning approval, a site development plan must be submitted and approved in accordance with all applicable provisions of the Pender County Unified Development Ordinance. The site development plan shall be reviewed by members of the Pender County Technical Review Committee (TRC). Furthermore, the proposal is subject to all other applicable federal, state, and local permits and approvals.

**Access**

The site is accessed from Dan Owen Drive (private access easement). The site is approximately 0.5 miles east of the intersection of US HWY 17 and NC HWY 210.

**Traffic**

The Pender County UDO requires a Traffic Impact Analysis when a development generates more than 100 trips in the morning or evening peak hours and over 1,000 trips per day. As proposed, this development would not require a TIA.

**Landscaping and Buffers**

All landscape and buffers are to be approved in accordance with Article 8, Landscaping and Buffering of the Pender County Unified Development Ordinance and in conformance with the approved Variance for the site (VAR 2021-08).

Proposed Buffers (Granted by BOA)	
Buffer Type	Location of Buffer
Type C	Adjacent Dan Owen Drive

**Signage**

Any signage required by federal, state, and local agencies will be reviewed for compliance during the site development plan review process.

ENVIRONMENTAL CONCERNS	
Special Flood Hazard Areas	The subject property does not contain any Special Flood Hazard Areas <sup>1</sup> .
Wetlands	Portions of the subject property contain characteristics of wetlands <sup>2, 3</sup> . The location of any wetlands will be verified during the site development plan review process, and any development within these wetlands is subject to review and approval from the U.S. Army Corps of Engineers.
Areas of Environmental Concern	The subject property does not contain any Areas of Environmental Concern (AEC) <sup>4</sup> .

<sup>1</sup> According to the effective regulatory and preliminary Flood Insurance Rate Maps NC Flood Risk Information System (NC FRIS)

<sup>2</sup> According to the NC Division of Coastal Management (NC DCM)

<sup>3</sup> According to the National Wetlands Inventory (NWI)

<sup>4</sup> According to the North Carolina Department of Environmental Quality (NCDEQ)

**PUBLIC NOTICE**

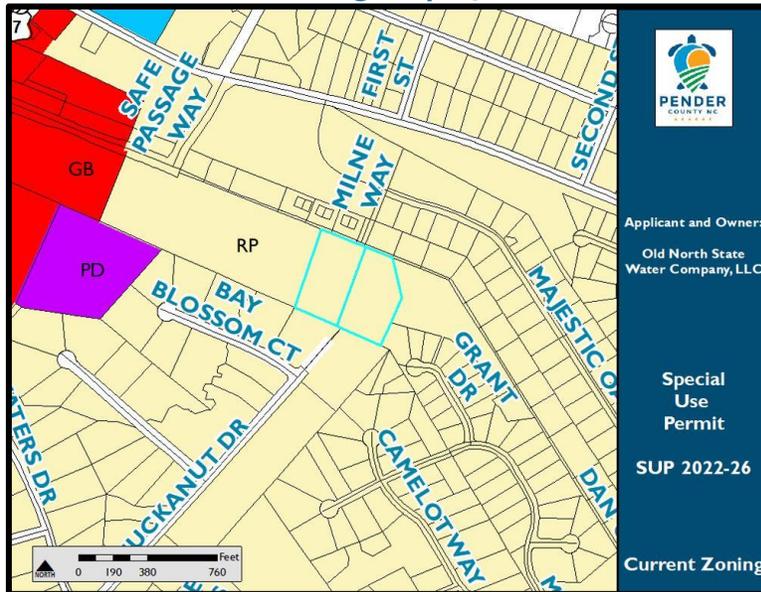
Public Notice for the Special Use Permit request has been advertised in the Pender-Topsail Post and Voice. In addition, all adjacent property owners within 500' of the proposed development have been given written notice of this request, and a public notice sign has been placed on the subject site.

**EVALUATION**

**Basis for Granting SUP Revision**

Approval and revocation procedures for Special Use Permits are located in Sections 3.12.3 and 3.12.4 of the Pender County Unified Development Ordinance.

*Below: Zoning Map of the Area*



CHARACTERISTICS OF THE SURROUNDING AREA		
	LAND USE	ZONING
<b>North</b>	Single Family Residential	RP, Residential Performance
<b>East</b>	Single Family Residential/Undeveloped	RP, Residential Performance
<b>South</b>	Single Family Residential	RP, Residential Performance
<b>West</b>	Single Family Residential/Undeveloped	RP, Residential Performance

### Unified Development Ordinance Compliance

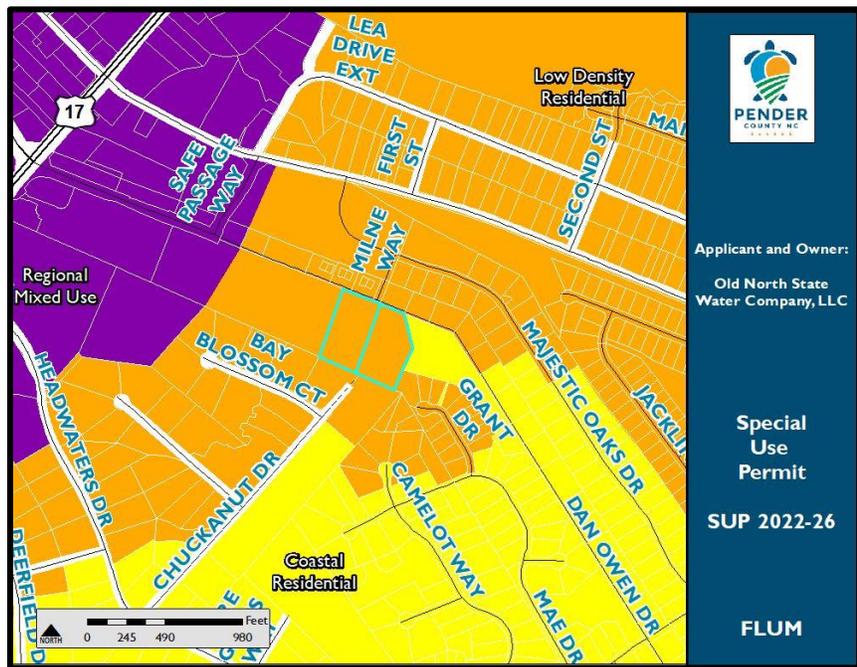
Use Type	NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
<b>MISCELLANEOUS USES</b>											
Sewage Treatment Facilities*	221320		S	PMD/S		PMD/S				P	

The subject property is zoned RP, Residential Performance zoning district and according to Section 5.2.3 of the Pender County Unified Development Ordinance, Sewage Treatment Facilities are permitted in this zoning district via Special Use Permit.

The Residential Performance zoning district is intended to accommodate non-residential agricultural uses and medium-density residential development (minimum of 1 du/15,000sf), as well as limited non-residential uses.

### Pender County 2.0: Comprehensive Land Use Plan Compliance

The subject property is located within the Low-Density Residential Future Land Use Classification as shown in the Future Land Use Map within the Pender 2.0 Comprehensive Land Use Plan. This future land use category is established in areas that are typically established single-family neighborhoods with a low-density residential development pattern. Appropriate uses include single-family dwellings and neighborhood-scale



institutional facilities. Commercial and industrial uses are inappropriate in these areas, as are large institutions and other significant traffic generators. Duplexes and townhomes may be suitable when proposed as part of a master planned community whereby the dimensional requirements and uses forming the outer boundary of the community are compatible with the adjacent properties or permissible uses. Development density within this category is two dwelling units per acre or less.

The proposed Special Use Permit revision was found to neither conflict nor contradict Pender 2.0 and the Future Land Use Map.

## PROPOSED CONDITIONS

### Conditions to Consider in Issuing a Special Use Permit for this Project

1. The project shall comply with all requirements of the Pender County Unified Developed Ordinance.
2. The obligations imposed by this permit will be the responsibility of the property owner and shall continue in effect for the duration of this permit.
3. The applicant shall meet all other local, state, and federal regulations.
4. Final zoning approval shall not be issued until the applicant provides all North Carolina Department of Environmental Quality wastewater permits to the Planning and Community Development department.
5. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.
6. Unless a request for additional time is granted or approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void if final Zoning Approval has not been issued for the project within 24 months after the Notice of Approval of the Special Use Permit has been served on the applicant.
7. All prior conditions of approval related to the Majestic Oaks Wastewater Treatment Facility shall apply.

# Pender County Planning and Community Development



805 S. Walker Street  
PO Box 1519  
Burgaw, NC 28425

Phone: 910-259-1202  
Fax: 910-259-1295  
[www.pendercountync.gov](http://www.pendercountync.gov)

## Special Use Permit Submission

Applications will be considered for the Board of County Commissioners 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**  
Date of Meeting   10/29/21
2.    **Signed Application**
3.    **Payment**  
\$300 for the first 5 acres; \$10 per acre over 5 acres of the project area
4.    **Site Plan**  
All Site Plans submitted must be in accordance with Section 3.12.2 of the Unified Development Ordinance.
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 to the Administrator a list of names and addresses of the owners of all properties located within 500-feet of the perimeter of the project bounds along of the property under consideration.
7.    **Adjacent Property Envelopes**  
The applicant shall provide one (1) set of #10 envelopes with typed addresses to each person on the owners of all properties located within 500-feet of the perimeter of the project bounds and accompanied with the required amount for first class postage.
8.    **Project Narrative**  
A description of the proposed Special Use Permit including response to the standards set forth in Section 3.12.3.G of the Unified Development Ordinance.

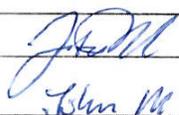
I certify that all information presented in this application is accurate to the best of my knowledge.

Signature of Applicant   *[Signature]*    
 Printed Name   John McDonald  
  Manager  

Date   11/1/21  

Staff Initials:	_____
Date:	_____

**APPLICATION FOR SPECIAL USE PERMIT**

THIS SECTION FOR OFFICE USE			
Application No.	SUP	Date	
Application Fee	\$	Invoice Number	
Pre-Application Conference		Hearing Date	
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	OLD NORTH STATE WATER CO. LLC	Owner's Name:	SAME
Applicant's Address:	3212 6 <sup>TH</sup> AVE SOUTH	Owner's Address:	
City, State, & Zip	BIRMINGHAM, AL 35222	City, State, & Zip	
Phone Number:	205-326-3200	Phone Number:	
Email Address:	jmcDonald@ntgwater.com	Email Address:	
Legal relationship of applicant to landowner: SAME			
<b>SECTION 2: PROJECT INFORMATION</b>			
Property Identification Number (PIN):	3292-05-8598-000 3292-05-6741-000	Total property acreage:	5.41
Zoning Classification:	RT	Acreage to be disturbed:	< 1 ACRE
Water Provider:	N/A	Wastewater Provider:	NA
Project Address:	DAN GWEN DR.	NAICS Code:	221320
Description of Project Location:	458 DAN GWEN DR. HAMPSTEAD		
Describe activities to be undertaken on project site:	CONSTRUCTION OF A SANITARY SEWER LIFT STATION		
<b>SECTION 3: SIGNATURES</b>			
Applicant's Signature		Date:	
Applicant's Printed Name:		Date:	
Owner's Signature		Date:	11/1/21
Owner's Printed Name:	John McDonald - Manager	Date:	
<b>NOTICE TO APPLICANT</b>			
1. Applicant must also submit the information described on the Special Use Checklist. 2. Applicant or agent authorized in writing must attend the public hearing. 3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing. 4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application 5. Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing.			

Office Use Only							
<input type="checkbox"/> \$ 300 for the first 5 acres; \$10 per acre over 5 acres of the project area					Total Fee Calculation: \$		
					Application#:		
					Date of Hearing:		
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	
<b>Payment Method:</b>	<b>Cash :</b> <input type="checkbox"/> \$ _____		<b>Credit Card:</b> <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		<b>Check:</b> <input type="checkbox"/> Check # _____		
Application received by:							Date:
Application completeness approved by:							Date:

# **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.



# 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

February 28, 2022

Old North State Water Company, LLC

RE: Approval of Variance Request (VAR 2021-08)

Dear Mr. McDonald,

At their January 19, 2022, meeting, the Pender County Board of Adjustment passed a unanimous motion (4-0) approving a request for a variance for a Sewage Lift Station within the existing Majestic Oaks Wastewater Treatment Facility that was approved through a Special Use Permit by the Pender County Board of Commissioners in June 2007 and subsequently amended in 2017 and 2018. The subject property is located within the Topsail Township. The variance includes relief from Pender County Unified Development Ordinance standards outlined in Sections 4.14, 'Zoning District Dimensional Requirements', 5.3.5C 'Sewage Lift Stations', and 8.2.6 'Buffer Descriptions and Options'. Specifically, the granted variance allowed for the Sewage Lift Station to remain where it is currently constructed, encroach 23' feet into the required 30' foot front yard setback, and allow the required Type C buffer to be constructed around the perimeter of the lift station while removing the required fencing component. The Board of Adjustment and applicant agreed to the following two conditions of approval of the Variance:

1. Fencing shall be installed in accordance with the Pender County Unified Development Ordinance for all structures above grade.
2. All fines incurred or to be incurred due to the zoning violation currently pending on the subject property shall be paid.

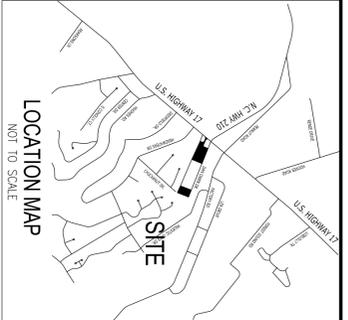
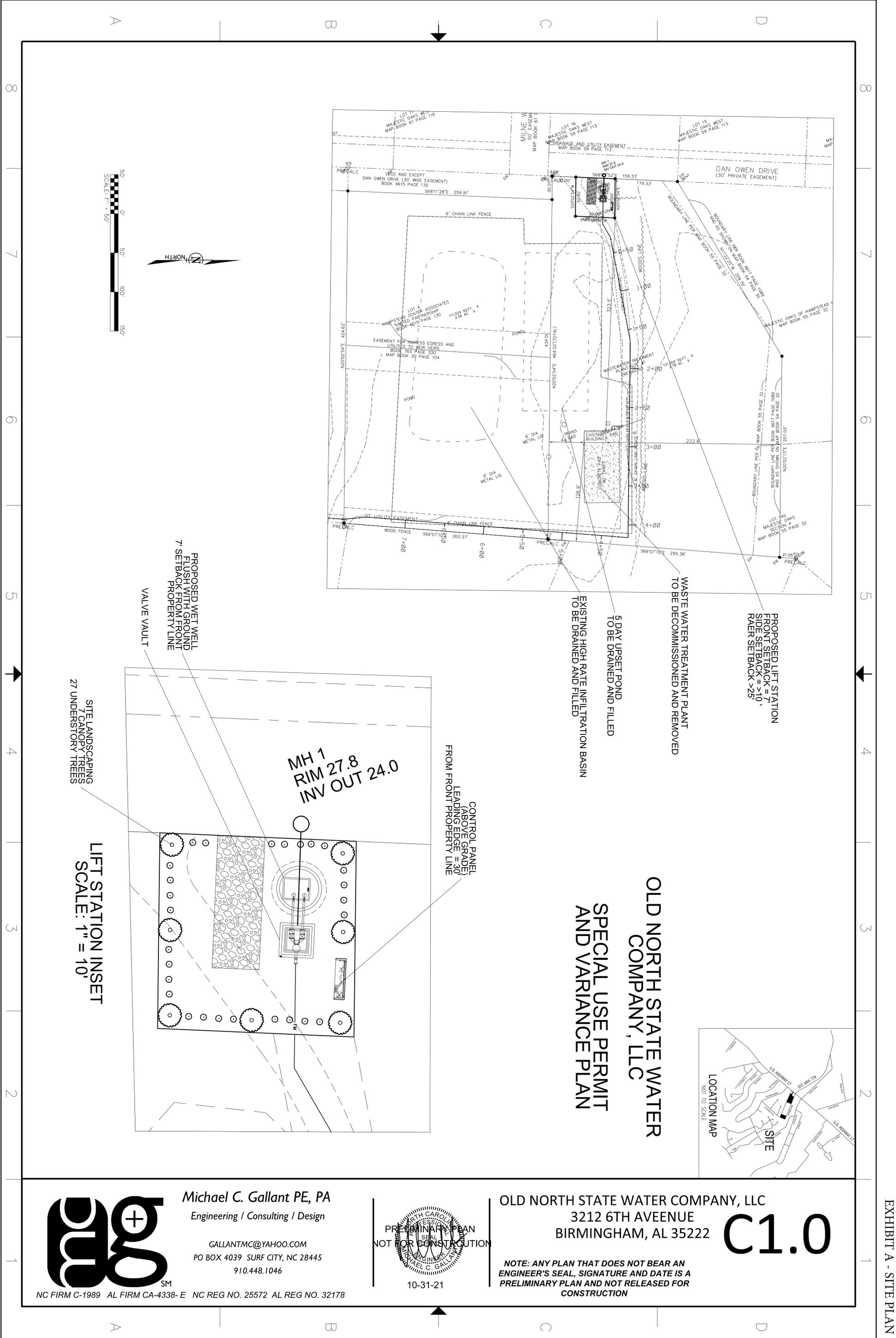
Appeals to the Board of Adjustment decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to G.S. 160D-947(e). A petition for review shall be filed with the Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given.

Please do not hesitate to contact me with any further questions.

Regards,

Greg Feldman, Current Planner  
Planning and Community Development  
Pender County, NC



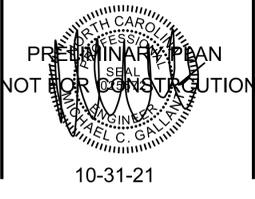


**OLD NORTH STATE WATER  
COMPANY, LLC  
SPECIAL USE PERMIT  
AND VARIANCE PLAN**

**C1.0**

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

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



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



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

EXHIBIT A - SITE PLAN



# Pender County

## Request For Board Action

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**DATE OF MEETING:**

**REQUESTED BY:**

**SHORT TITLE:**

**BACKGROUND:**

**SPECIFIC ACTION REQUESTED:**

OFFICIAL COPY

Nov 04 2022

**RESOLUTION**

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

**AMENDMENTS:**

**MOVED:**

**SECONDED:**

APPROVED

DENIED

**YEA VOTES:**  BROWN  MCCOY  NEWTON  PIEPMEYER  WILLIAMS

\_\_\_\_\_  
George R. Brown, Chairman      Date

\_\_\_\_\_  
Clerk to the Board      Date

# Pender County Planning and Community Development

**Planning Division**  
805 S. Walker Street  
PO Box 1519  
Burgaw, NC 28425



Phone: 910-259-1202  
Fax: 910-259-1295  
[www.pendercountync.gov](http://www.pendercountync.gov)

November 29, 2018

Fox Rothschild LLP  
434 Fayetteville Street, Suite 2800  
Raleigh, North Carolina 27601

ATTN: Karen M. Kemerait

**Re: SUP-2018-5 Special Use Permit Major Revision Approval (PINs: 3292-05-6741-0000 and 3292-05-8598-0000)**

Ms. Kemerait,

The Pender County Board of Commissioners, at their November 19, 2018 meeting, voted unanimously to pass a motion to approve the Major Revision to an existing Special Use Permit (SUP 07-06-18-19) to expand the service district and continued operation of a wastewater treatment facility (NAICS 221320), 'Sewage Treatment Facility'. There are two (2) tracts associated with this revision, 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). They are approximately ±0.5 miles east of the intersection of US HWY 17 and NC HWY 210 within the Majestic Oaks subdivision in the Topsail Township. The subject properties may be further identified by Pender County PINs: 3292-05-6741-0000 and 3292-05-8598-0000.

Attached you will find the Board Action Form containing this approval information. The following conditions are part of this Special Use Permit approval:

1. Revocation – In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Administrator may initiate a notice of violation for the provisions of this Ordinance and the conditions of the Special Use Permit not in compliance or the Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified.
2. County review of expanded service areas shall be required to demonstrate consistency with the goals and priorities of the comprehensive plan. A consistency determination should be issued by the Planning and Community Development Department prior to application being made to the State Utilities Commission. This may be in the form of staff approval of a specific project or Board (Planning Board/Board of County Commissioners) approval, dependent upon review criteria outlined in the Pender County Unified Development Ordinance (as amended).
3. The sewage treatment facility and associated infrastructure shall be built in accordance with all applicable local, state, and federal regulations. The treatment facility and associated infrastructure should be designed and constructed for the conversion of the system to public ownership, operation and maintenance should the system be accepted by the County.
4. Service areas requested by the applicant to the Public Utilities Commission should be non- exclusive service areas to allow for Pender County Utilities to provide service along the applicant's force main locations.
5. No junk, debris trash or inoperable vehicles, recycled or salvaged materials shall be stored on the site outside a completely enclosed building.
6. No project activity shall commence on the site including clearing and grading until a Final Zoning Permit has been issued.
7. No permanent personnel occupancy on-site will be allowed.

8. All operations must follow federal, state, and local standards, regulations, ordinances, permits, statutes, and/or laws.
9. Any physical improvements to the site, including ponds, structures, etc. that expands the footprint of the existing land use would require approval from the Board of Commissioners via Special Use Permit.
10. A Final Zoning approval shall not be issued to increase the capacity of the Majestic Oaks Wastewater Facility until a proof of resolution for the Notice of Violation/Notice of Intent to Enforce (NOV-2018-CV-0002), issued by the Division of Water Resources, Division of Water Quality, dated April 9, 2018, is submitted to the Pender County Planning & Community Development department.
11. The plant operators shall cut, remove a section, and plug the approximately 4-inch pipe located in the southwest portion of Pender County PIN 3292-05-6741-0000, and install a rock well under the removed section of pipe.
12. The plant operators shall cover the equalization basin and sludge holding tank, enclose the initial screen, and pass the air from those units to an air scrubber to eliminate odors.
13. All vendors for sludge hauling, chemical delivery, trash pickup, and plant repairs will be limited to Monday through Friday between the hours of 8:00 am and 5:00 pm.
14. If the integrity of the privacy fence, located on Pender County PIN 3292-05-2496-0000, is damaged resultant from water from the Majestic Oaks Wastewater Facility, the plant operators will assume responsibility of all damage and will replace the fence.

At this time a Minor Site Development Application must be submitted to the Pender County Planning and Community Development Department as outlined in accordance with Section 6.2 of the Pender County Unified Development Ordinance. At this time no project activity is authorized on the site until a Final Zoning Permit has been issued. Again, this Special Use Permit shall expire and become void, if a final zoning permit has not been issued for the project within 24 months. Please do not hesitate to contact me at (910) 259-1408 if you have any further questions.

Respectfully,



Gideon Smith, Current Planner I  
Pender County Planning and Community Development

*Attachment: SUP-2018-5 Board Action Form*