

Lori Epler,  
Chair  
Cumberland County

Roy Turner,  
Vice-Chair  
Cumberland County

Garland C. Hostetter,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman  
Patricia Hall,  
Town of Hope Mills  
Charles C. Morris,  
Town of Linden



Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Walter Clark,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin  
Wade, Falcon, & Godwin

## COUNTY of CUMBERLAND

### *Planning & Inspections Department*

October 8, 2009

#### **MEMORANDUM**

**TO:** Fayetteville City Council

**Thru:** Karen Hilton, Fayetteville Interim Planning Director

**FROM:** Edward M. Byrne, Land Use Codes

**SUBJECT:** CASE NO. 09-105. WAIVER REQUEST FOR THE LEE PROPERTY LOT 3, SUBDIVISION REVIEW; REQUEST FOR WAIVER FROM SECTION 2302.B "SEWER SERVICE AREA, COUNTY SUBDIVISION ORDINANCE, REGARDING DEVELOPMENT CRITERIA, SPECIFICALLY SIDEWALK INSTALLATION; ZONING: A1; TOTAL ACREAGE: 161.00 +/-; LOCATED AT THE SOUTHEAST QUADRANT OF SR 2010 (JOHN B. CARTER ROAD) & SR 2014 (MACEDONIA CHURCH ROAD). (SEWER SERVICE AREA)

The Cumberland County Planning & Inspection Department is requesting a recommendation from Fayetteville City Council on the above referenced case. The developer has requested a waiver from the Sewer Service Area (SSA) development criteria that requires a sidewalk along SR 2010 (John B. Carter Road). Since this development is located within the SSA, the interlocal agreement between the County Board of Commissioners and the City of Fayetteville applies, sidewalks on one side of collector streets and both sides of all thoroughfares in this area.

The proposed development is a five lot subdivision with four of the lot sizes ranging from two to three acres and one lot being 26.14 acres. The remaining parent tract will retain 123.85 acres across SR 2010 (John B. Carter Road).

Attached you will find the wavier application with additional information, conditions of approval, subdivision sketch plan, aerial photo, area thoroughfare map and vicinity map. If you have any questions, please contact me at 910-678-7609, email: [ebyrne@co.cumberland.nc.us](mailto:ebyrne@co.cumberland.nc.us) or Patti Speicher at 910-678-7605, email: [pspeicher@co.cumberland.nc.us](mailto:pspeicher@co.cumberland.nc.us).

cc: George Turner, Owner  
Averette Engineering, Surveyor  
Butch Raynor, Acting County Attorney  
Tom Lloyd, Director  
Patti Speicher, Land Use Codes



Date Request Submitted: \_\_\_\_\_

Planning Board Meeting Date: \_\_\_\_\_

Received by: \_\_\_\_\_

## **Cumberland County Subdivision Ordinance**

### ***Request for Waiver***

Case No.: 09-105 Case Name: Lee Property - Lot 3

Related Ordinance Section Number(s): ~~4.1e~~ 2302.B

Summary of Request: Request waiver of sidewalk

Section 6.1 of the County Subdivision Ordinance governs the Planning Board's authority to waiver provisions of the Subdivision Ordinance. This section reads as follows:

#### ***Section 6.1. Waivers***

*The Planning Board may waive the requirements of this Ordinance where it finds by resolution that:*

- a. Because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, problems of access, or the existence of other unusual physical conditions, strict compliance with the provisions of this ordinance would cause a special hardship to the property owner and be inequitable, and*
- b. The public purposes of the Subdivision Ordinance and the Zoning Ordinance would be served to an equal or greater degree, and*
- c. The property owner would not be afforded a special privilege denied to others.*

*In granting waivers, the Planning Board may require such conditions as will secure, in so far as practicable, the objectives of the requirements waived. Any waiver, thus granted, is required to be entered in writing in the minutes of the Planning Board and the reasoning upon which departure was justified set forth.*

The applicant is strongly encouraged to read the above provisions and relate the written waiver request as closely as possible to the criteria contained within. All supporting documentation for the request shall be submitted along with this request for waiver. For example, if the request is based on topography or soils, the applicant is the responsible

party to submit as evidence 'topo' and/or soils maps or if the request is based on the "condition or nature of adjoining property", the applicant will be required to submit evidence supporting this as basis for the request.

My request should receive favorable consideration by the Planning Board based on the following summary of the basis for this request:

1. Because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, problems of access, or the existence of other unusual physical conditions (at least one of the preceding basis must be addressed in this request), strict compliance with the provisions of this Ordinance would cause a special hardship to the property owner and be inequitable, due to:

*The frontage of this property is 2686ft. The proposed subdivision has 5 lots (4 of which have the frontage on John B. Carter Rd.). The cost of the sidewalk would be  $2,686' \times \$22/\text{ft} = \$59,092$  or  $\$14,773$  per lot (4 lots). This would be a sidewalk to nowhere. No adjoining areas have sidewalk (incl. nearby subdivisions) + this is a rural area of the county, Zoned A1, where sidewalks are not required.*

2. The public purposes of the County Subdivision and County Zoning Ordinances would be served to an equal or greater degree and the applicant agrees to:

*Subdivide this property according to Zoning Requirements + the County's Land Use Plan without constructing a sidewalk that does not benefit the property owners or the public citizens of Cumberland County.*

3. The property owner would not be afforded a special privilege denied to others, because:

*Adjacent properties + developed subdivisions do not have sidewalks.*

*This is a rural area + sidewalks would serve no purpose to the residents of this subdivision or to the public. This property is Zoned A1 + is rural.*

By signing this request, the applicant is signifying that all statements contained within this request are accurate and true to the best of their knowledge.

Charles D. Averette

Printed Name of Applicant/Agent

910-488-5656

Daytime Phone Number

Charles D. Averette

Signature of Applicant/Agent

10-1-09

Date Signed





PICTURES OF LEE PROPERTY 09-30-09



PICTURE #1



PICTURE #2





PICTURE #3

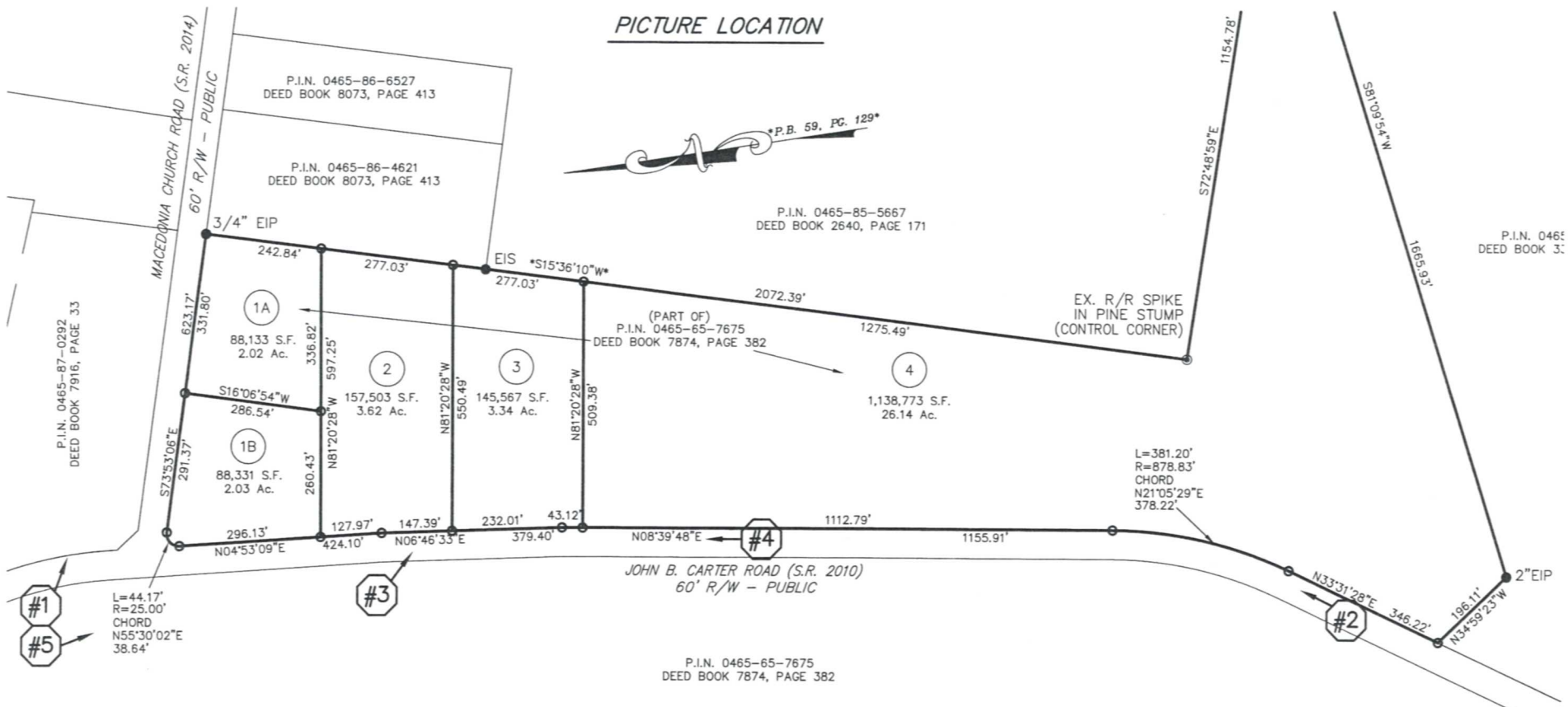


PICTURE #4



PICTURE #5

# PICTURE LOCATION





Lori Epler,  
Chair  
Cumberland County

Roy Turner,  
Vice-Chair  
Cumberland County

Garland C. Hostetter,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman  
Patricia Hall,  
Town of Hope Mills  
Charles C. Morris,  
Town of Linden



## COUNTY of CUMBERLAND

### Planning and Inspections Department

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Walter Clark,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin  
Wade, Falcon, & Godwin

(Revised: 9-28-09)

STAFF REVIEW: 09-21-09 PLANNING BOARD DECISION: N/A

CASE NO: 09-105 NAME OF DEVELOPMENT: LEE PROPERTY, LOT 3

MIA: N/A (W/IN SSA) SUBDIVISION REVIEW

LOCATION: AT THE SOUTHEAST QUADRANT OF SR 2010 (JOHN B. ZONING: A1

CARTER ROAD) & SR 2014 (MACEDONIA CHURCH ROAD) PIN: 0465-65-7675-

OWNERS / DEVELOPER: GEORGE TURNER ENGINEER OR DESIGNER: AVERITTE ENGINEERING

#### PLANNING & INSPECTIONS DEPARTMENT ACTION:

- ☒ PRELIMINARY  
☐ EXTENSION ☐ REVISION  
☒ APPROVED CONDITIONALLY  
☐ DENIED

#### PLANNING BOARD DECISION:

- ☐ PRELIMINARY  
☐ EXTENSION ☐ REVISION  
☐ APPROVED CONDITIONALLY  
☐ DENIED

The development plat/plan you submitted to this office is conditionally approved. Your approval is subject to the following conditions:

#### Permit-Related:

1. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
2. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision Ordinance)
3. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
4. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are



required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.

5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
6. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.

**Site-Related:**

7. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the A1 zoning district must be complied with, as applicable.
8. All corner lots and lots fronting more than one street must provide front yard setbacks from each street.
9. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision Ordinance)
10. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
11. This review does not constitute a "subdivision" approval by NC Department of Transportation (NCDOT). A separate submittal to NCDOT will be required prior to consideration for addition to the system of any street within this development.
12. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
13. Turn lanes may be required by the NC Department of Transportation (NCDOT).

**Plat-Related:**

14. The remaining parent tract must be numbered and the remaining acreage be reflected on the final plat.
15. Prior to submission for final plat approval, a concrete sidewalk is required to be constructed along SR 2010 (John B Carter Rd). (Per Interlocal Agreement between County Board of Commissioners and the City of Fayetteville – Sewer Service Area.) Contact Randy Lane, City Engineering regarding sidewalk specifications.
16. Prior to final plat approval of any portion of this development, the developer is required to submit a check or cash in the amount of \$141.77 (\$35.44 per lot/4 lots) payable to "Cumberland County". This condition is in accordance with Section 2308, Parks, Recreation and Open Space, County Subdivision Ordinance, which requires every residential dwelling unit to provide a portion of land, in certain instances, or pay a fee in lieu of dedication, for the purposes of providing park, recreation and open space areas. (Park District # 2)
17. Any/All easements must be reflected on the final plat and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.
18. The NC Department of Transportation (NCDOT) most likely will not allow a driveway for each individual lot and, if required, the joint driveways must be reflected on the final plat.
19. A 25' right-of-way radius is required at all intersections and must be reflected on the final plat. (Section 2304.10.c, Street Design, County Subdivision Ordinance) (Note: Lot 1B must be revised to reflect the 25 foot radius on the final plat.)
20. The NC Department of Transportation (NCDOT) stamp must be affixed to the final plat prior to submission for final plat approval by Land Use Codes.

21. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the final plat when submitted for final approval. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision Ordinance)
22. The developer is reminded that the improvements must be in place or that final plat approval will only be granted in accordance with Section 2502 B, C, or D, Final Plat – Guarantees of Improvements, Subdivision Ordinance. (Note: Once the improvements are in place, the developer is responsible for contacting Jeff Barnhill to schedule an inspection of the improvements.)
23. The final plat must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.

**Plat-Required Statements:**

24. Since this development does not have public water/sewer, the following disclosure statement is required to be provided on the final plat (Section 2504 C, On-Site Water and/or Sewer Discloser, County Subdivision Ordinance):

“The individual lots in this development do not have public sewer and/or water services available, and no lots have been approved by the Health Department for on-site sewer services or been deemed acceptable for private wells at the date of this recording.”

25. All structures shall be shown on the final plat or the final plat shall reflect the following statement (Section 2504 D, County Subdivision Ordinance):

“Nonconforming structures have not been created by this subdivision.”

**Advisories:**

26. The applicant is advised to consult an expert on wetlands before proceeding with any development.
27. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.

**Other Relevant Conditions:**

28. The owner/developer be aware that every deed created for a lot being served by an on-site water and/or sewer system must contain the following disclosure when filed with the County Register of Deeds:

“Public water and/or sewer services are not available as of the date of the recording of this deed. On-site sewer disposal systems must be approved by the County Health Department.”

**If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605; otherwise, contact the appropriate agency at the contact numbers below.**

**Contact Information (Area Code is 910 unless otherwise stated):**

Improvements Inspections:	Jeff Barnhill	678-7765
Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
Fayetteville Engineer (Sidewalks):	Randy Lane	433-1661
County Public Utilities/NORCRESS:	Tom Cooney	678-7682
Corp of Engineers (wetlands):	Ronnie Smith	(910) 251-4829
NCDENR (E&S):	Sally McKinney	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549



NCDOT (driveways/curb-cuts):  
N.C. Division of Water Quality:

Gary Burton  
Mike Randall

486-1496  
(919) 733-5083 ext. 545

cc: Marsha Bryant, City of Fayetteville

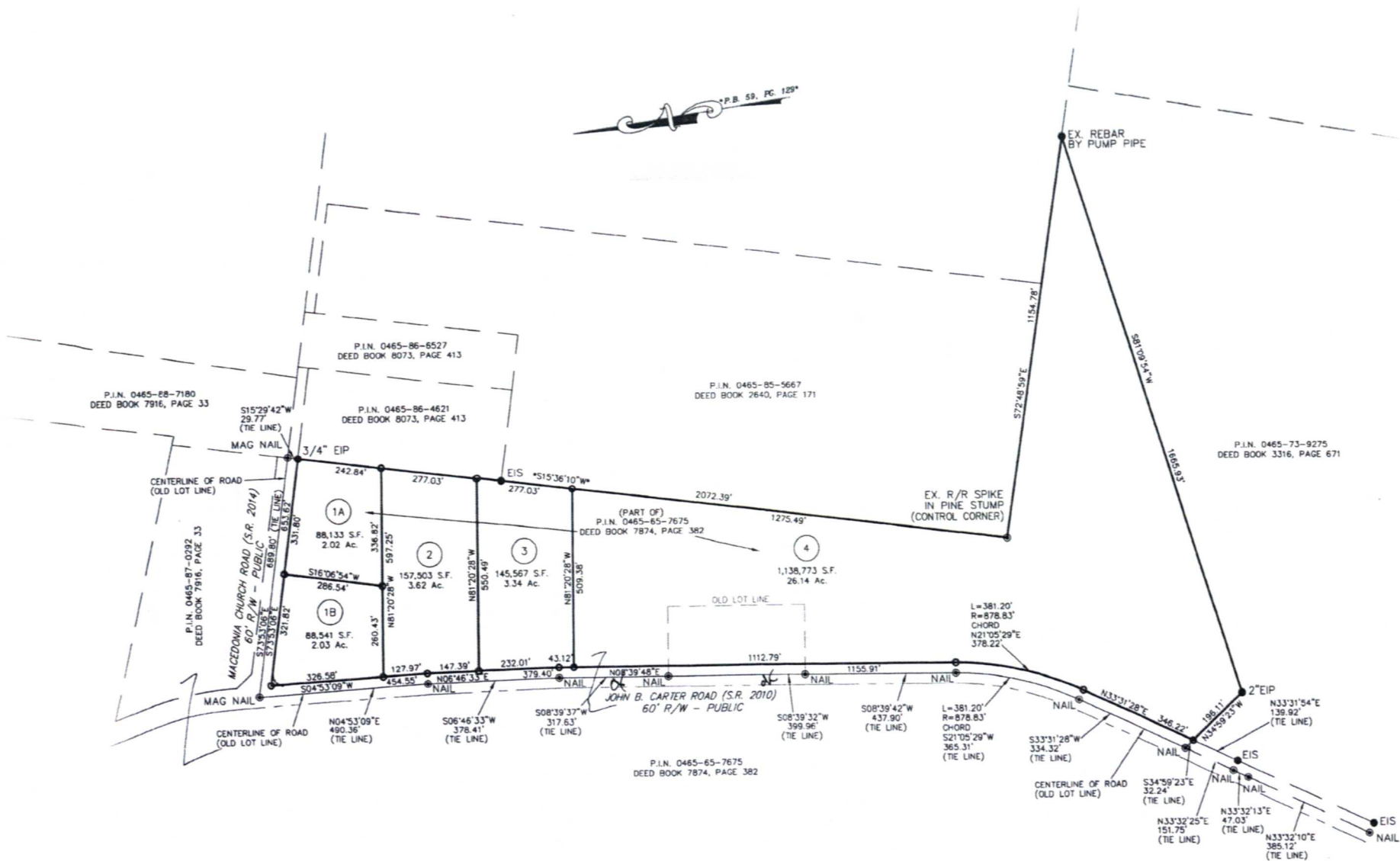
**OFFICIAL PRELIMINARY STAMP**  
CUMBERLAND COUNTY  
CASE NO: **09-105**  
Revised: 9-28-09

THIS PLAN APPROVED BY THE CUMBERLAND COUNTY PLANNING &  
INSPECTION DEPARTMENT ON: 09-21-09

COMMENTS: SUBJECT TO CONDITIONS

I CERTIFY THAT THIS PLAN HAS BEEN APPROVED BY THE CUMBERLAND  
COUNTY PLANNING & INSPECTIONS DEPARTMENT AS DRAWN HEREON  
AND MAY BE USED FOR ANY OFFICIAL PURPOSE AS PERMITTED BY LAW.  
THIS APPROVAL IS VALID UNTIL: 12-21-12

*Patricia S. Speicher* **EMB**  
\_\_\_\_\_  
SUPERVISOR, LAND USE CODES



**LEE PROPERTY - LOT 3  
SUBDIVISION REVIEW**

**REQUEST: A WAIVER FROM SECTION 2302.B. REGARDING SIDEWALKS**

**CASE: 09-105 ACREAGE: 161.00 AC +/-**

**ZONED: A1 SCALE: NTS**

\*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST

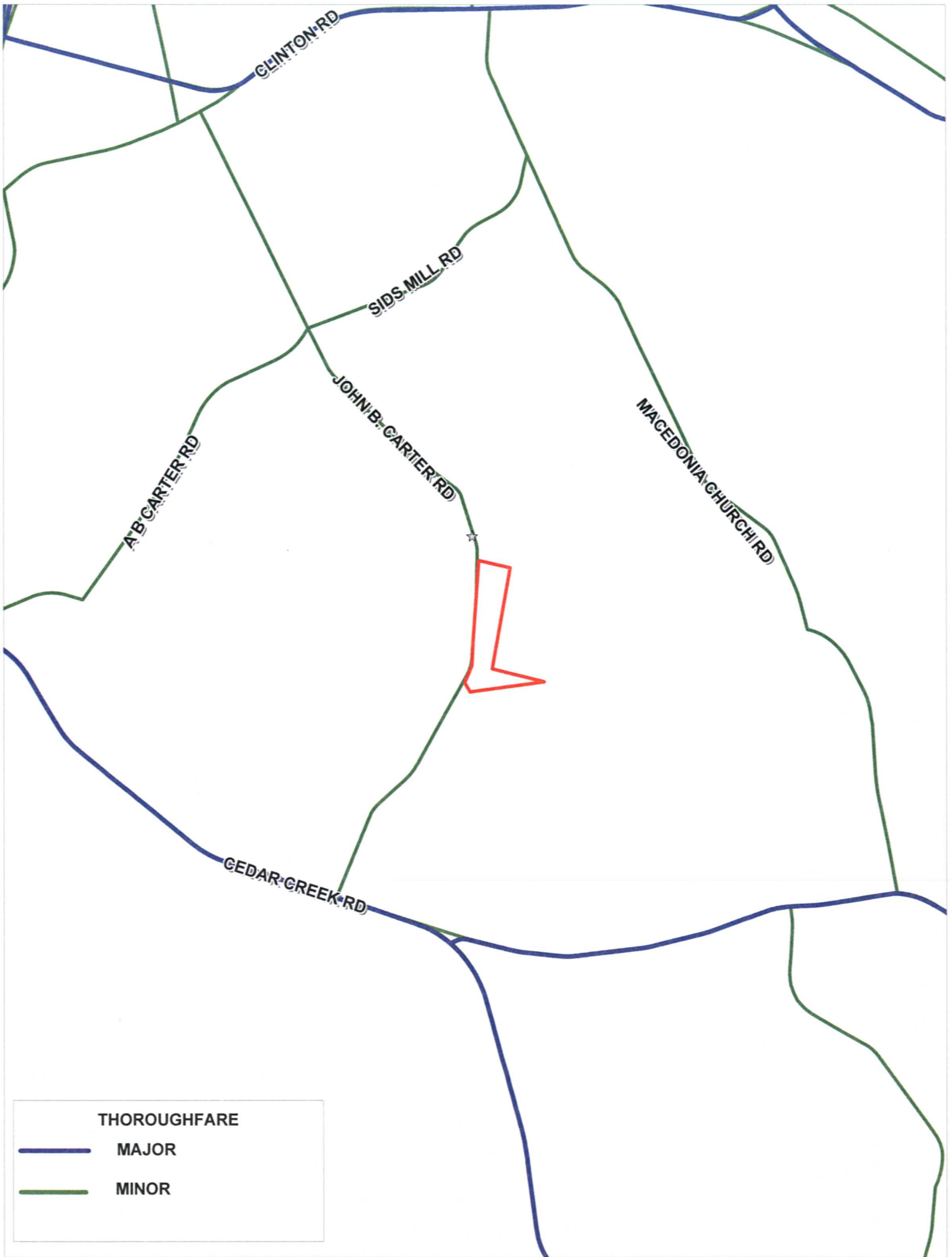




**AERIAL PHOTO**  
**CASE NO: 09-105**

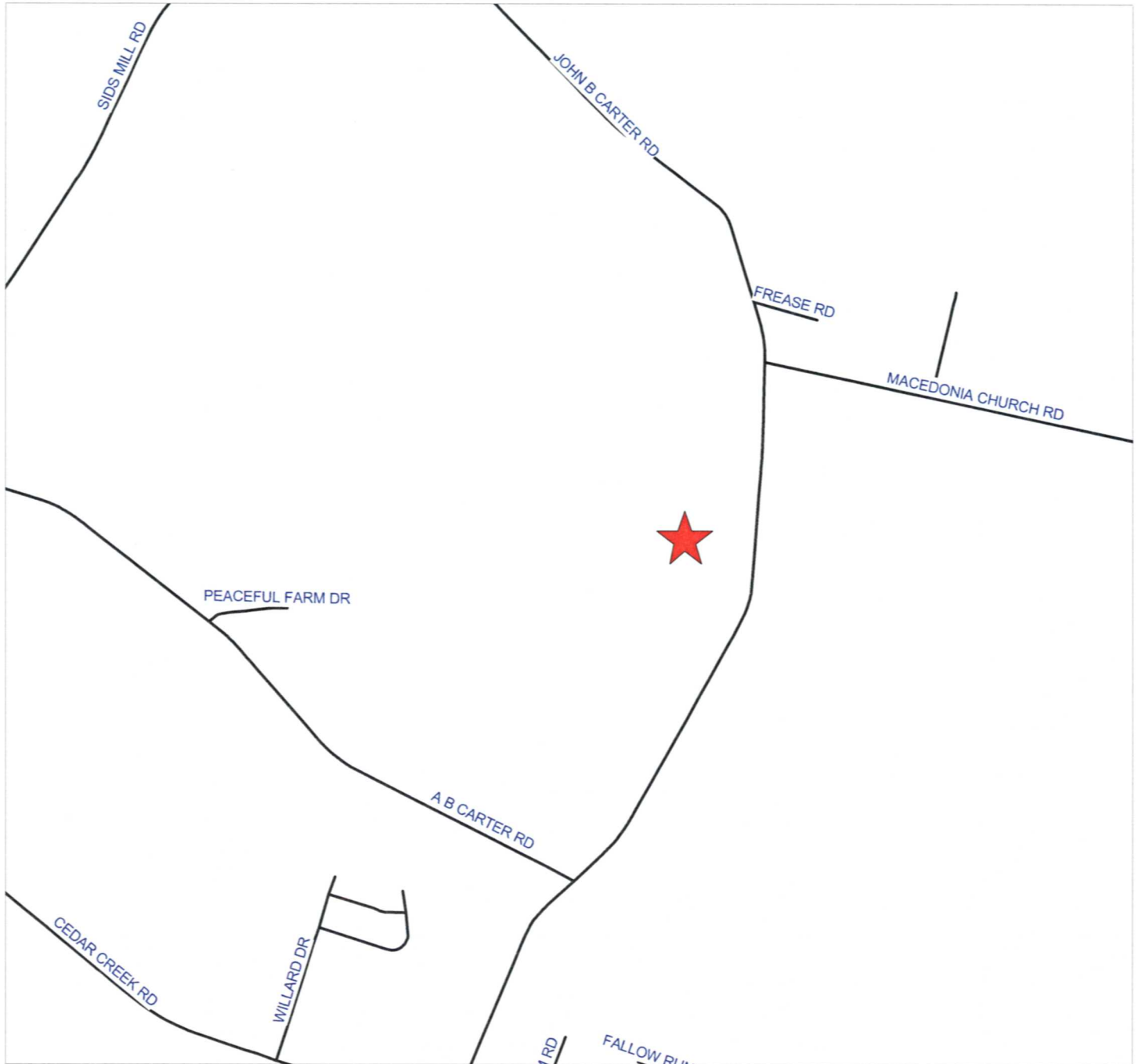








**LEE PROPERTY LOT 3  
SUBDIVISION REVIEW  
CASE NO. 09 - 105**



PIN(S): 0465-65-7675-  
Created by EMB - CCJPB  
OCTOBER 5, 2009

Map not to scale

