Pender County

Agenda

Board of Adjustment Meeting

Wednesday, January 27, 2021 @ 9:00 AM

Pender County Public Assembly Room

		Presenter	Page
1.	CALL TO ORDER		
2.	ROLL CALL		
3.	INVOCATION		
4.	ELECTION OF OFFICERS		
5.	ADOPTION OF AGENDA		
6.	PUBLIC COMMENT		
7.	APPEAL		
	8.1. APPEAL 2020-05 APPEAL 2020-05 - Pdf		3 - 14
8.	DISCUSSION ITEMS		
9.	NEXT MEETING DATE February 17, 2021 9:00 AM		
10.	ADJOURNMENT		

Pender County
Board Action For Appeal

TO:	Board Of Adjustment
FROM:	Travis Henley
DATE:	January 27, 2021
SUBJECT:	APPEAL 2020-05

SUMMARY:
Jirah Investments, LLC, applicant, on behalf of Jack Broadbridge, owner, is requesting an Appeal of an Administrative Decision. The appeal is of a decision to deny a subdivision request on the subject parcel, as well as a determination that the subject parcel is not a buildable lot, due to staff's determination that the subject parcel was not part of the platted Master development Plan for Phase 1 of Belvedere Plantation and is part of an open space area per Map Book 16, Page 20 and Map Book 23, Page 143 of the Pender County Register of Deeds.

ACTION REQUESTED:
To hold a public hearing and consider the appeal.

ATTACHMENTS:
1. APPEAL 2020-5- Staff Report
2. APPEAL 2020-5- Application
3. APPEAL 2020-5- Appeal Request 1
4. APPEAL 2020-5- Appeal Request 2
5. APPEAL 2020-5- Proposed Subdivision
6. APPEAL 2020-5- MB16 PG20
7. APPEAL 2020-5- MB23 PG143

PLANNING STAFF REPORT
APPEAL OF ADMINISTRATIVE DECISION

SUMMARY:

Hearing Date: January 27, 2021
Applicant: Jirah Investments, LLC
Property Owner: Jack Broadbridge
Case Number: APPEAL 2020-05

Property Location and Description: The subject property is located at the intersection of S. Belvedere Drive (SR 1679) and Lakeview Drive (SR 1680) within the Belvedere Plantation community, in the Topsail Township.

Zoning District of Property: The subject property is zoned PD, Planned Development zoning district.

Summary of Appeal Request: Jirah Investments, LLC, applicant, on behalf of Jack Broadbridge, owner, is requesting an Appeal of an Administrative Decision. The appeal is of a decision to deny a subdivision request on the subject parcel, as well as a determination that the subject parcel is not a buildable lot, due to staff's determination that the subject parcel was not part of the platted Master Development Plan for Phase 1 of Belvedere Plantation and is part of an open space area per Map Book 16, Page 20 and Map Book 23, Page 143 of the Pender County Register of Deeds.

BACKGROUND AND DESCRIPTION OF APPEAL REQUEST:
The area that is now the subject property is first shown on Map Book 16, Page 20 of the Pender County Register of Deeds, and is shown again on Map Book 23, Page 143. Both documents (attached) display Section 1 of the Belvedere Plantation Master Plan. On Map Book 16, Page 20, the area that became the subject property is shown as the general location of "Well Site No. 3." This well site is not shown on Map Book 23, Page 143. In both instances, a 15' drainage easement is shown in the general vicinity of what would become the subject property adjacent to the rights-of-way of S. Belvedere Drive and Lakeview Drive. The subject property is not shown as a separate parcel from the golf course/open space area, nor as a numbered lot, in either instance. Based on staff's research, it appears that the subject property was created via deed description or other similar type of process prior to the adoption of the Pender County Unified Development Ordinance in 2010. Staff could find no record of an act of subdivision recorded with the Register of Deeds creating the subject parcel.

Pender County Planning and Community Development received a proposed subdivision of the subject parcel in early-September 2020 (included in attachments). Based on the subject parcel's presence within the open space area of the Belvedere Plantation Master Plan as shown in Map Book 16, Page 20 and Map Book 23, Page 143 of the Pender County Register of Deeds, Staff communicated a refusal to accept the proposed subdivision of the subject parcel for review. Furthermore, it was communicated to the applicant and their representatives that even with approval of the proposed subdivision, the subject property was still shown as open space on the recorded Master Plan for Belvedere Plantation and as such, zoning permits would not be issued for development of the parcel.

Furthermore, at the Pender County Board of Adjustment's November 13, 2019 meeting, the Board voted 3-1 to uphold Staff's denial of a zoning permit on another parcel of land shown as an unnumbered lot on Map Book 16, Page 20 and Map Book 23, Page 143 of the Pender County Register of Deeds based on a determination that because the subject property was not shown as a numbered lot on the recorded Master Plan for Belvedere Plantation, the subject property was therefore part of open space of the development and was not buildable. Staff made the determination in association with the previous case, and continues to hold the determination in reference to this case, that in order to remove the subject property from open space, a revision to the Belvedere Plantation Master Development Plan would be required. This revision would then require the entire Master

Development Plan to come into compliance with current County regulations.

ZONING ADMINISTRATOR'S CONCLUSION:

Jirah Investments, LLC, applicant, on behalf of Jack Broadbridge, owner, is requesting an Appeal of an Administrative Decision. The appeal is of a decision to deny a subdivision request on the subject parcel, as well as a determination that the subject parcel is not a buildable lot, due to staff's determination that the subject parcel was not part of the platted Master Development Plan for Phase 1 of Belvedere Plantation and is part of an open space area per Map Book 16, Page 20 and Map Book 23, Page 143 of the Pender County Register of Deeds. As specified in N.C.G.S. 153A-345(b), an appeal by any person aggrieved by a final order, interpretation or decision of the Administrator or other administrator in regard to the provisions of this Ordinance may be taken to the Board of Adjustment.

3.16.6 Action by Board of Adjustment

A. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

B. A motion to reverse, affirm, modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

C. If a motion to reverse or modify is not made, or fails to receive the affirmative vote of a majority of members present, the appeal shall be denied.

D. Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

BOARD ACTION FOR APPEAL:

MOVED_____ SECONDED_____

APPROVED_____DENIED_____ MODIFIED_____ UNANIMOUS_____

YEA VOTES: BREUER____ KIPFER_____ NELSON_____ RIVENBARK_____ OLSEN_____ SNIDER_____

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

APPEAL OF ADMINISTRATIVE DECISION

As specified in N.C.G.S. 153A-345(b), an appeal by any person aggrieved by a final order, interpretation, or decision of the Administrator or other administrator in regard to the provisions of this Ordinance may be taken to the Board of Adjustment.

Application Requirements

A. An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Administrator and the Board of Adjustment within thirty days after the decision by the Administrator.
B. An application for appeal of an administrative decision shall be submitted in accordance with Section 3.1.2, Application Requirements.
C. A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Administrator. The date and time of filing shall be entered on the notice.

Deadline for Submission of Application

An appeal of an administrative decision shall be filed with the Administrator and Board of Adjustment within thirty (30) days of receipt of the decision.

Action by Board of Adjustment

A. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.
B. A motion to reverse, affirm, modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
C. If a motion to reverse or modify is not made, or fails to receive the affirmative vote of a majority of members present, the appeal shall be denied.
D. Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

Appeals from the Board of Adjustment

Appeals to the Superior Court may be taken by any person, firm or corporation aggrieved, or by any office, department, board, of the County affected by any decision of the Board of Adjustment, provided such appeals shall be taken within thirty (30) days after the decision of the Board of Adjustment is filed in the office of the Administrator, or after a written copy thereof is delivered to the applicant, whichever is later. The decision of the Board shall be delivered to the applicant by certified mail.

APPLICATION FOR APPEAL OF ADMINISTRATIVE DECISION

THIS SECTION FOR OFFICE USE			
Application No.	AAD APPEAL 2020-5	**Date**	10-2-2020
Application Fee	$ 250.00	**Receipt No.**	3592

SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Jirah Investments LLC c/o Tyler Sugden	**Owner's Name:**	BROADBRIDGE, JACK c/o POA
Applicant's Address:	116 Soundview Drive	**Owner's Address:**	P O BOX 7933
City, State, & Zip	Hampstead, NC 28443	**City, State, & Zip**	WILMINGTON, NC 28406
Phone Number:	910.494.4889	**Phone Number:**	910.815.0697
Legal relationship of applicant to land owner:	Under contract to purchase contingent on approval concerning at NE/S LAKEVIEW DRIVE		

SECTION 3: SIGNATURES			
Applicant's Signature		**Date:**	10-1-20
Owner's Signature	Sandra Broadbridge poa	**Date:**	10-1-20

NOTICE TO APPLICANT:

1. Applicant must also submit the information described below in the Appeal of Administrative Decision 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 Adjustment agrees to table or delay the hearing.

APPEAL OF ADMINISRATIVE DECISION CHECKLIST

☐	Signed application form
☐	Application fee
☐	One business size envelope legibly addressed with **certified** postage for all participants for the appeal
☐	Appeal Description: Written description of the Appeal taken forward including all pertinent materials (pictures, permits, etc.)

OFFICE USE ONLY

☑ **AAD Fees $250**		**Total Fee Calculation $**
Payment Method :	**Cash :** ☐ $_____	**Credit Card:** ☑ Master Card ☐ Visa / **Check:** ☐ Check # _____
Application received by:	Abie Bonevac	Date: 10-2-2020
Application completeness approved by:	Abie Bonevac	Date: 10-2-2020
Date scheduled for public hearing:		

Print Form

To whom it may concern:

10/2/2020

I am appealing the denial of a sub division on PIN 4203-84-2690-000

Scanned with CamScanner

[External]Appeal on Parcel 42038426900000

Tyler Sugden <tyler.sugden@gmail.com>

Thu 1/14/2021 11:03 AM

To: Travis Henley <thenley@pendercountync.gov>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Travis,

Per our phone conversation, I wanted to clarify that the appeal is of the determination that Parcel # 42038426900000 was an unbuildable property and additionally that the parcel was ineligible to be subdivided into 2 lots.

Cheers,

--
Tyler Sugden

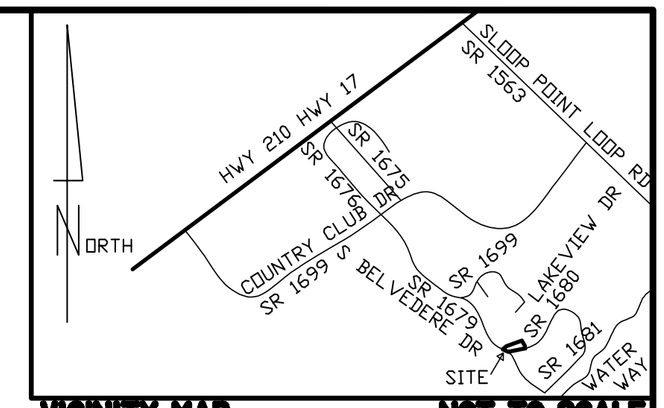
NOTES

ALL DISTANCES ARE GROUND DISTANCES UNLESS MARKED OTHERWISE.
THIS PROPERTY MAY BE SUBJECT TO ANY EASEMENT OR RIGHT-OF-WAY.
#5 REBAR SET AT CORNERS AS NOTED.
RAW ERROR OF CLOSURE IS 1:15,000.
AREA COMPUTED BY COORDINATE METHOD.
SUBJECT TRACT DEED REFRENCE: DB 3783, PG 21. MB 16, PG 20.
DATE OF SURVEY; AUG 26, 2020

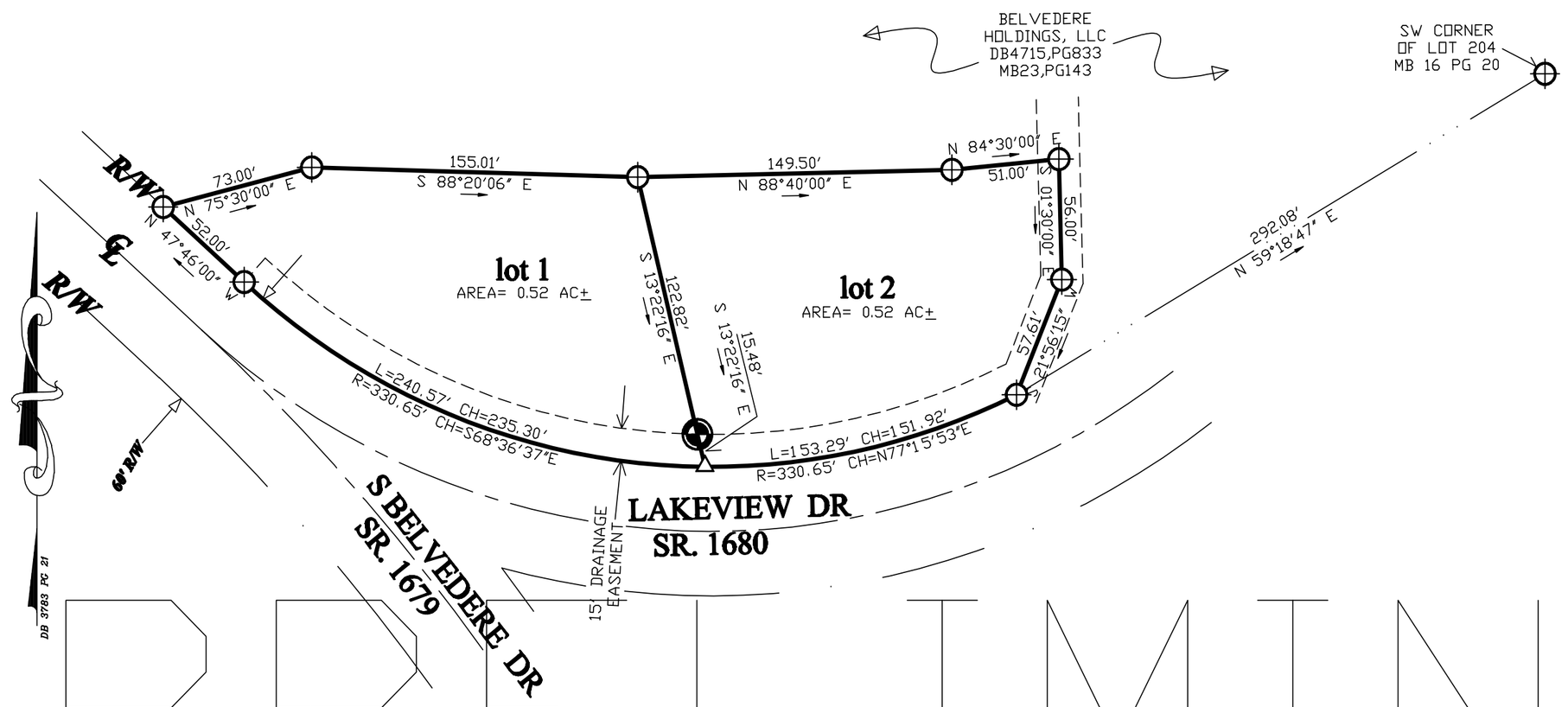
THIS PLAT WAS PREPARED WITHOUT THE BENIFIT OF A TITLE REPORT.
THIS SITE IS IN A FLOOD ZONE X AS PER FEMA PANEL # 3720420300 J.
WITH AN EFFECTIVE DATE OF 2/16/2007

ZONED PD
SETBACKS AS PER
BELVEDERE RESTRICTIONS
DB 995 PG 39
FRONT= 35'
SIDE STREET= 15'
SIDE= 10'
BACK= 20'

LEGEND
- Nail in Pavement
- Rebar found
- Rebar set
- Drainage Easement
- Tie Line



VICINITY MAP **NOT TO SCALE**



REVIEW OFFICER CERTIFICATION

State of North Carolina
County of Pender

I,_____, Review Officer of Pender County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer _____ Date _____

Parcel Identifier Certificate
Parcel Identifiers have been issued for all of the parcels shown on this plat.

TAX OFFICE _____ DATE _____

CERTIFICATE OF REGISTRATION
BY THE REGISTER OF DEEDS
STATE OF NORTH CAROLINA
PENDER COUNTY

PRELIMINARY

SURVEYOR'S CERTIFICATION

THE SUBDIVISION SHOWN ON THIS PLAT DOES NOT CONTAIN SPECIAL FLOOD HAZARD AREAS AND IS NOT LOCATED IN A FLOODWAY AS DEFINED BY THE FEDERAL EMERGENCY MANAGMENT AGENCY.

THE SUBDIVISION SHOWN ON THIS PLAT DOES NOT CONTAIN AREAS OF ENVIRONMENTAL CONCERN AS DEFINED BY THE NORTH CAROLINA COASTAL RESOURCES COMMISSION.
WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL
THIS DAY OF AD,2020

HANS L. LONANDER, PLS
L-4736 NORTH CAROLINA

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) own free consent and dedicate all streets, alleys, walks, parks, easements, and other areas to public or private use as noted. Further, I (we) certify that the land as shown hereon is located within the subdivision jurisdiction of pender county and that we herby adopt this plan of subdivision with our free consent and establish minimum set back lines as per the pender county zoning and dedicate all streets, alleys, walks, parks, and easements to public or private use as noted. furthermore, we hereby dedicate all sanitary sewer, storm sewer and waterlines to pender county where applicable.

OWNER: _____ Date _____
JIRAH INVESTMENTS
116 SOUNDVIEW DR.
HAMPSTEAD NC, 28443

SURVEYOR'S CERTIFICATION

I, HANS L. LONANDER, PLS CERTIFY THAT THIS PLAT IS A SURVEY THAT CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND;

HANS L. LONANDER, PLS
L-4736 NORTH CAROLINA

SURVEYOR'S CERTIFICATION

I,Hans L Lonander, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in DB 3783 PG 021; That the boundaries not surveyed are clearly indicated as drawn from information found in MapBook 16, Page 20;That the ratio of precision as calculated is 1:15,000; That this plat was prepared inaccordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this _____day of_____, AD., 2020

HANS L LONANDER, PLS
L-4736 NORTH CAROLINA

Hans L. Lonander, PLS
303 OTTAWAY CT.
HAMPSTEAD, NC 28443
910-789-9735
License # L-4736

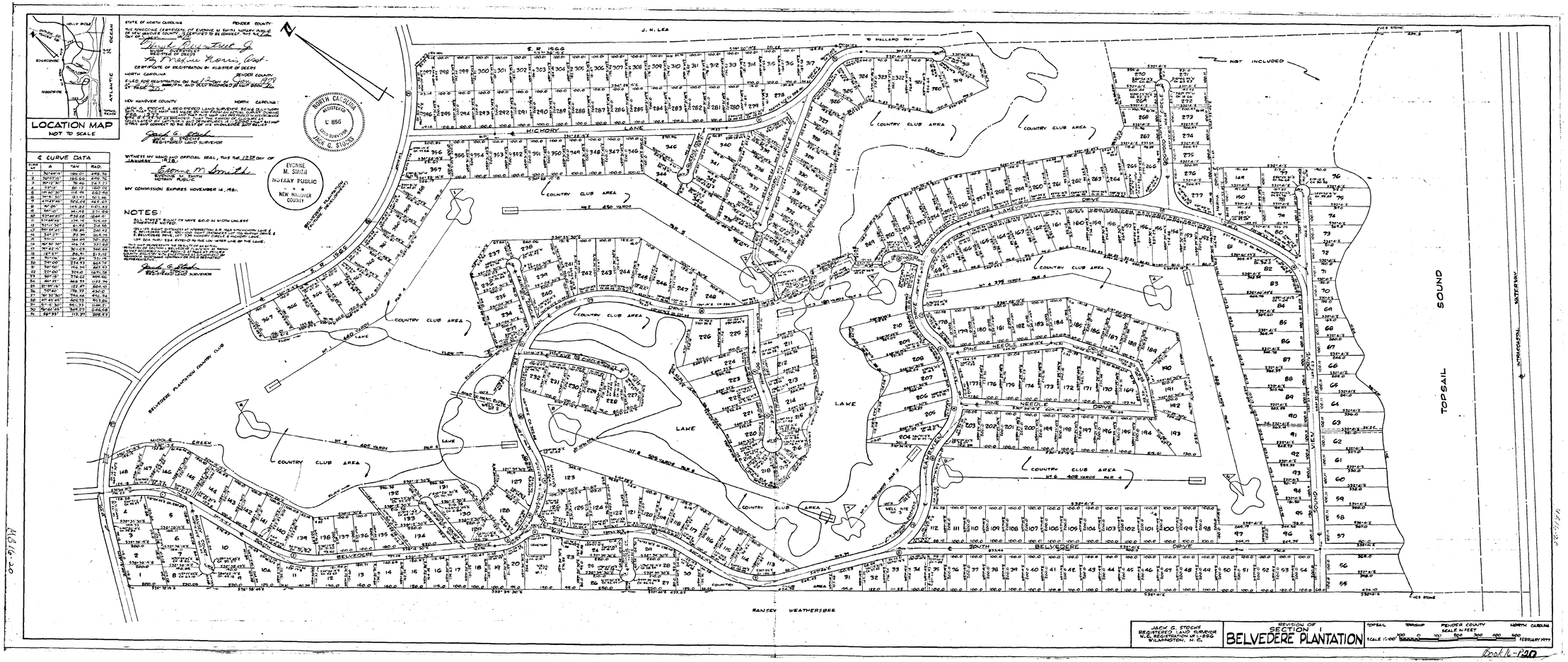
TITLE
THREE LOT SUBDIVISION ON NCDOT ROAD

LAKEVIEW LOTS

PIN # 4203-84-2690-0000

TOPSAIL TOWNSHIP **PENDER COUNTY** **NC**
SCALE 1"=50" **GRAPHIC SCALE** **AUGUST 26, 2020**

50 0 25 50 100 200



℄ CURVE DATA			
CURVE NO.	Δ	TAN	RAD.
1	36°44'15"	166.01	498.76
2	30°57'15"	155.66	498.76
3	39°15' 30"	78.46	243.77
4	53°12'	80.13	160.73
5	49°40' 30"	116.94	662.90
6	34°40' 30"	83.47	261.88
7	49°29'45"	550.03	969.07
8	6° 50'	145.87	1181.42
9	6° 50'	80.18	2311.69
10	53°46'45"	238.08	1244.31
11	17°48'	61.78	396.92
12	37°17' 30"	61.78	316.43
13	59°39'45"	78.35	241.13
14	34°27'	83.39	305.76
15	34°27'	184.89	501.50
16	60°56' 30"	146.74	331.60
17	19°41' 30"	50.03	360.65
18	18°53'	86.91	613.12
19	14°24' 30"	161.85	1311.19
20	54°00'	334.93	662.74
21	54°00'	142.34	263.93
22	53°00'	324.0	1671.08
23	56°18'	374.52	1096.62
24	44°21'	468.77	1177.74
25	51°39'15"	127.47	664.10
26	19°40'	196.97	430.0
27	37°21' 30"	144.44	495.74
28	37°21' 30"	80.73	103.86
29	51°-15' 30"	80.73	103.86
30	36°41' 30"	117.97	1146.74
31	58°33'	117.97	1098.93

23-143

NEW HANOVER COUNTY NORTH CAROLINA

I JACK G. STOCKS CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL SURVEY MADE BY ME THAT THE ERROR OF CLOSURE AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000+ AND IS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY HAND AND SEAL, THIS 6TH DAY OF APRIL 1988.

JACK G. STOCKS
REGISTERED LAND SURVEYOR
N.C. REGISTRATION Nº L856
WILMINGTON, N.C.

NORTH CAROLINA NEW HANOVER COUNTY

I A NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID CERTIFY THAT JACK G. STOCKS, A REGISTERED LAND SURVEYOR PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT. WITNESS MY HAND AND OFFICIAL STAMP OR SEAL, THIS 6TH DAY OF APRIL 1988.

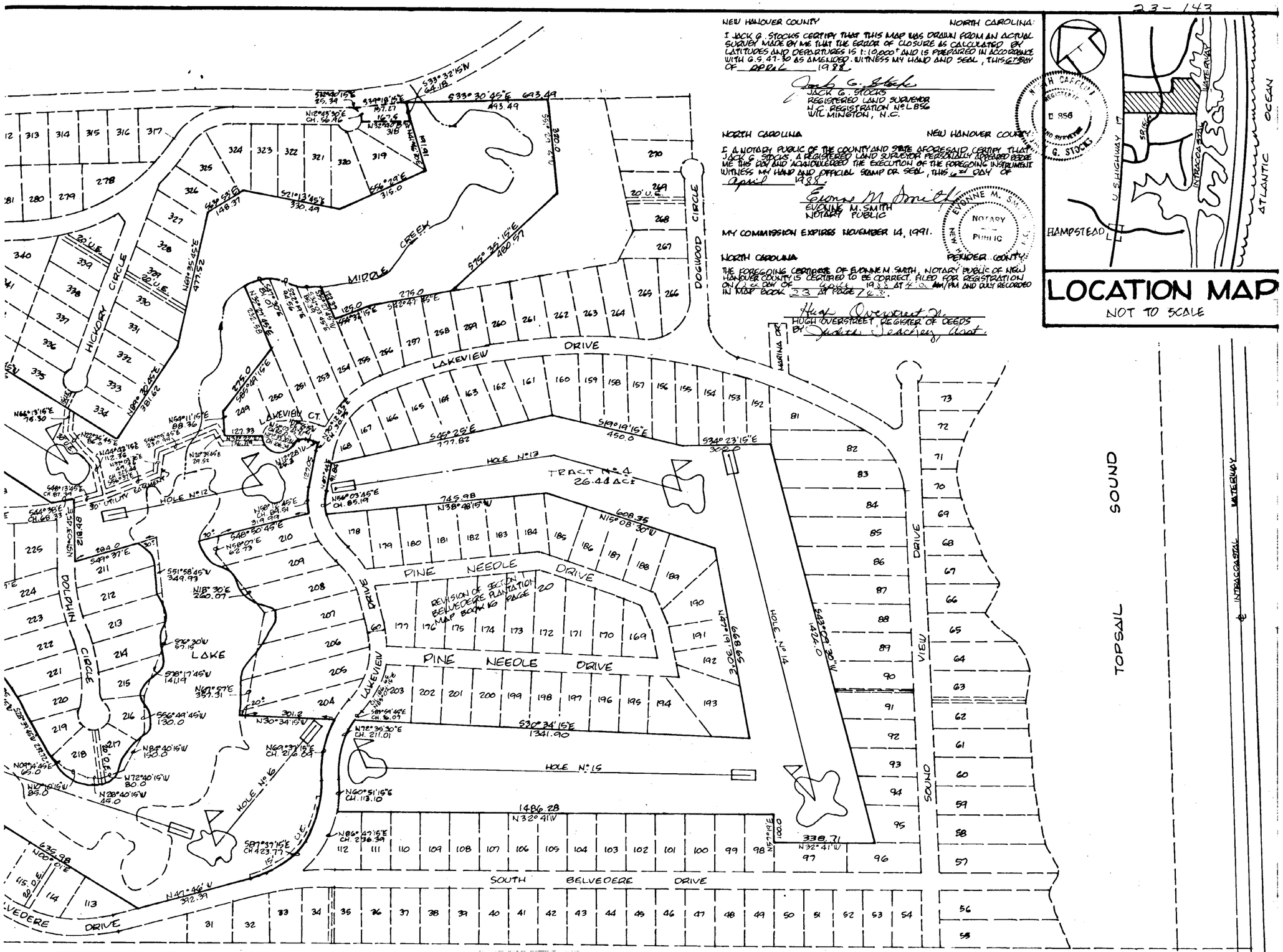
EVONNE M. SMITH
NOTARY PUBLIC

MY COMMISSION EXPIRES NOVEMBER 14, 1991.

NORTH CAROLINA PENDER COUNTY

THE FOREGOING CERTIFICATE OF EVONNE M. SMITH, NOTARY PUBLIC OF NEW HANOVER COUNTY IS CERTIFIED TO BE CORRECT. FILED FOR REGISTRATION ON 6TH DAY OF APRIL 1988 AT 4:00 AM/PM AND DULY RECORDED IN MAP BOOK 23 AT PAGE 143.

HUGH OVERSTREET, REGISTER OF DEEDS
BY Judith Peachey Asst.



JACK G. STOCKS
REGISTERED LAND SURVEYOR
N. C. REGISTRATION Nº L856
WILMINGTON, N.C.

MAP OF LAND
BELVEDERE PLANTATION GOLF & YACHT CLUB

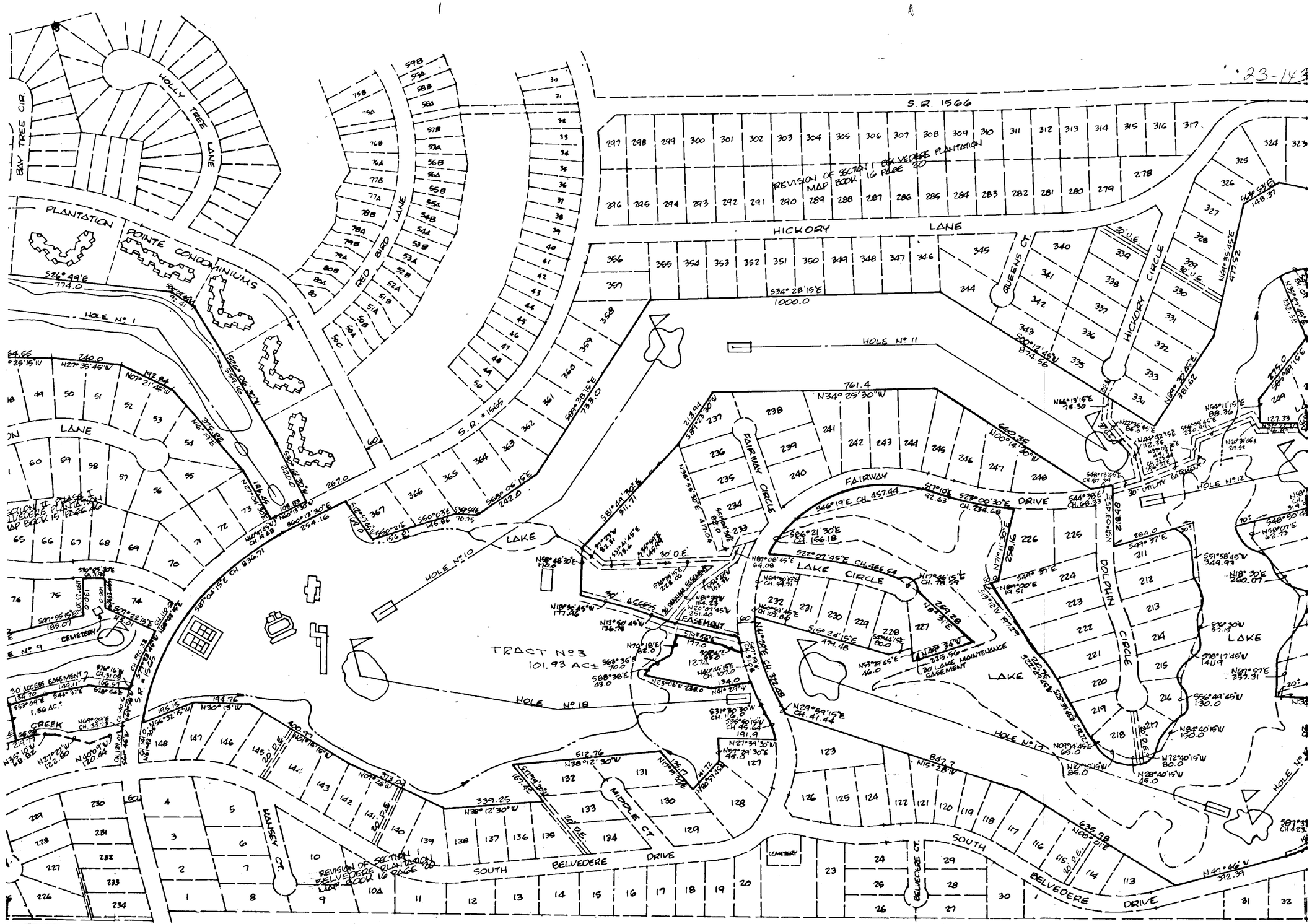
TOPSAIL TOWNSHIP PENDER COUNTY NORTH CAROLINA

SCALE IN FEET
200 0 200 400 600 800 1000
SCALE 1" = 200'

OWNED BY THE SUSSEX EAST COMPANY

APRIL, 1988
SHEET 1 OF 3

23-143



JACK G. STOCKS
REGISTERED LAND SURVEYOR
N. C. REGISTRATION No. L856
WILMINGTON, N.C.

MAP OF LAND
BELVEDERE PLANTATION GOLF & YACHT CLUB

TOPSAIL TOWNSHIP — PENDER COUNTY — NORTH CAROLINA

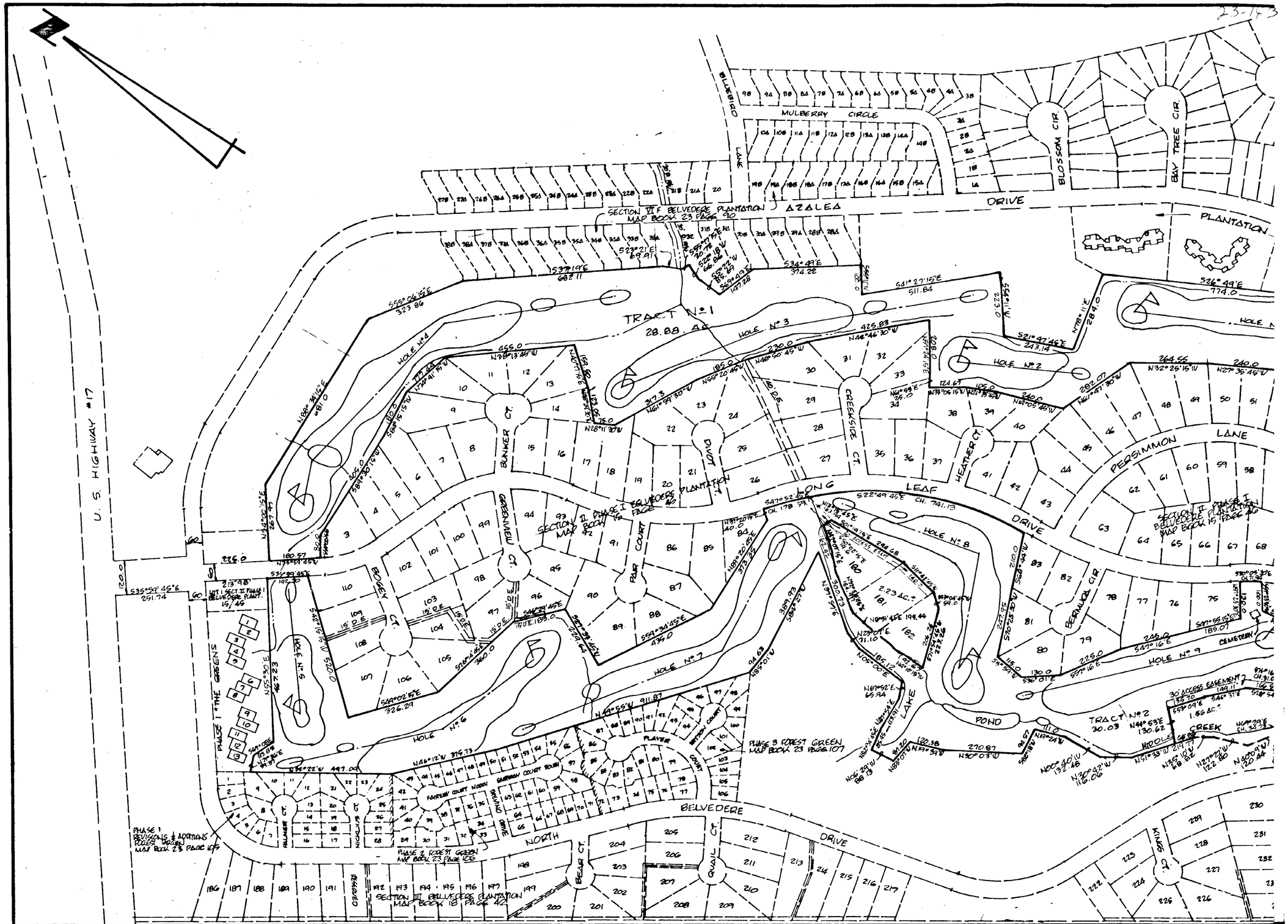
SCALE IN FEET
200 0 200 400 600 800 1000
SCALE 1" = 200'

APRIL 198

OWNED BY THE SUSSEX EAST COMPANY

SHEET 2 OF 3

23-143



JACK G. STOCKS
REGISTERED LAND SURVEYOR
N. C. REGISTRATION No L856
WILMINGTON, N.C.

MAP OF LAND
BELVEDERE PLANTATION GOLF & YACHT CLUB

TOPSAIL TOWNSHIP — PENDER COUNTY — NORTH CAROLINA

SCALE IN FEET

200 0 200 400 600 800 1000

SCALE 1" = 200'

OWNED BY THE SUSSEX EAST COMPANY

APRIL 1986

SHEET 3 OF 3