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TOTAL 35 REV \_\_\_\_\_ TC# 38  
REC# \_\_\_\_\_ CK AMT 250 CK# 8955  
CASH \_\_\_\_\_ REF \_\_\_\_\_ BY \_\_\_\_\_

**MASTER CROSS-ACCESS EASEMENT AND MAINTENANCE  
AGREEMENT FOR WATERFORD**

NORTH CAROLINA

BRUNSWICK COUNTY

THIS MASTER CROSS-ACCESS EASEMENT AND MAINTENANCE AGREEMENT FOR WATERFORD (this "Easement") is made and entered into as of the 7 day of JANUARY, 2003 by WDV, INC., a North Carolina corporation (the "Developer").

WITNESSETH

WHEREAS, Developer is the original developer of a planned community containing both residential and commercial uses known as Waterford located in Brunswick County, North Carolina ("Waterford"), which community includes or may include (all of the property described on Exhibit A attached hereto and incorporated herein by reference (the "Residential Property") and (the "Commercial Property" and any annexations thereto) and being hereinafter collectively referred to as the "Property");

WHEREAS, the owners and occupants of the Residential Property and the owners and occupants of the Commercial Property shall each use and obtain benefits from certain streets, roads, entry landscaping and other common area improvements being more particularly described herein (the "Mixed-Use Common Areas"); and

WHEREAS, Developer wishes to: (i) establish a right of common reciprocal access, ingress, egress and use of such Mixed-Use Common Areas; (ii) provide for the maintenance and replacement thereof; and (iii) provide for the fair and equitable allocation of expenses of maintenance and administration thereof.

NOW, THEREFORE, Developer, as the owner of the Property, does hereby encumber the Property and Waterford with the following easements and covenants, it being the intent of Developer that the Property shall be owned, conveyed and used subject to all of the provisions of this Easement, which shall run with the title to such Property and be binding upon all persons having any right, title, or interest in any portion of Waterford, their heirs, successors, successors-in-title and assigns:

1. Definitions. For the purposes of this Agreement, the following definitions will apply:

a. "Commercial Association" shall mean the non-profit corporation or association established under the Commercial Declaration. The membership of the Commercial Association shall include each Owner of a lot or parcel within the Commercial Property (subject to the particular terms of the Commercial Declaration).

b. "Commercial Declaration" shall mean the master declaration of protective covenants to be established by Developer for the Commercial Property.

c. "Mixed-Use Common Areas" shall mean and include the streets, roadways and access areas now existing or hereafter constructed within the areas shown on Exhibit A

attached hereto and incorporated herein by reference, and any annexations thereto, together with such appurtenant signs, sidewalks, gates, lighting, landscaping, water features and other common area improvements as may be constructed or installed therein from time to time all as delineated and identified on subsequently recorded maps thereof as mixed use common areas.

d. *“Mixed-Use Common Area Expenses”* shall mean all reasonable costs and expenses incurred in the maintenance, repair and replacement of the Mixed-Use Common Areas, including, without limitation, the costs of maintaining, repairing and replacing the streets, roadways, landscaping and other improvements comprising the Mixed-Use Common Areas; furnishing utilities to the Mixed-Use Common Areas; procuring and maintaining insurance on or relating to the Mixed-Use Common Areas; payment of ad valorem taxes on the Mixed-Use Common Areas; and retaining accountants, attorneys and other personnel whose services are necessary in connection with the administration of the Mixed-Use Common Areas.

e. *“Owner”* shall mean an owner of any portion of the Property.

f. *“Residential Association”* shall mean the non-profit corporation or association established under the Residential Declaration. The membership of the Residential Association shall include each Owner of a lot or parcel within the Residential Property (subject to the particular terms of the Residential Declaration).

g. *“Residential Declaration”* shall mean the master declaration of protective covenants to be established by Developer for the Residential Property.

2. Non-Exclusive Easement. Developer does hereby establish, convey, grant and create for each of the Owners, and does hereby reserve for the benefit of Developer, a perpetual, mutual, reciprocal and non-exclusive easement of passage and use, both vehicular and pedestrian, over, across and through the Mixed-Use Common Areas, TO HAVE AND TO HOLD the easements granted in this Paragraph 2 together with all privileges and appurtenances thereto, unto each of the Developer, the Owners, the Commercial Association, the Residential Association, and their respective heirs, successors and assigns.

3. Maintenance. The Commercial Association shall be responsible for the maintenance, repair, operation, supervision, administration and management of the Mixed-Use Common Areas. The Commercial Association shall be required to maintain, repair and replace the Mixed-Use Common Areas in good repair and condition and in a manner befitting a first-class mixed-use development.

4. Mixed-Use Common Area Expenses; Budget. The Mixed-Use Common Area Expenses shall be allocated in shares to the Associations as follows:

a. Initial Year and subsequent years until 20,000 square feet of commercial space as defined below:

Residential share	90%
Commercial share	10%

b. Subsequent Years - the commercial share shall be based upon the square footage of constructed leased space or space otherwise used for public business purposes within the commercial property as follows:

	<u>Commercial Share</u>	<u>Residential Share</u>
20,000 - 99,999 square feet =	25%	75%
100,000 – 199,999 square feet =	50%	50%
200,000 square feet and above =	75%	25%

Each year, on the same schedule required for the creation and distribution of the budget of the Residential Association, the Commercial Association shall establish an annual budget for the Mixed-Use Common Area Expenses (the “Budget”) and shall distribute the proposed Budget to the Owners in a manner satisfying the budgetary requirements of the North Carolina Planned Community Act (the “PCA”). The Budget shall be subject to the prior approval of both Associations which approval shall not be unreasonably withheld.

5. Assessments. The Residential Association and the Commercial Association shall each include its portion of the Mixed-Use Common Area Expenses, as provided in the approved Budget, in its own annual budget as part of the common expenses of such association and assess its portion of the Mixed-Use Common Area Expenses against its members as part of the common expense assessments established in the declarations and corporate documents applicable to such association. As such, each Owner's prorated portion of the Mixed-Use Common Area Expenses shall be a charge on the land and a continuing lien upon the lot or parcel against which such assessment is made. The Residential Association and the Commercial Association each agree to take all steps necessary to levy upon and collect from their respective members the portion of the Mixed-Use Common Area Expenses assessed against such association and its members, including, without limitation, bringing an action at law or foreclosing the lien against the applicable lot(s) as provided in the declaration encumbering such portion of the Property. The Residential Association shall pay its allocated portion of the Mixed-Use Common Area Expenses to the Commercial Association in equal monthly instalments

6. Damages Caused by Negligence or Wilful Misconduct. Notwithstanding the foregoing to the contrary, in the event any maintenance, repair or replacement of any portion of the Mixed-Use Common Areas is occasioned by the negligent act or omission of a particular Owner or his or her immediate family, guests or invitees, then, in such case, the Residential Association (if such Owner owns a portion of the Residential Property) or the Commercial Association (if such Owner owns a portion of the Commercial Property) shall be required to pay any portion of the cost of such maintenance, repair and replacement which is not paid for by insurance proceeds received therefor (provided that such association shall be entitled to reimbursement from such Owner or such Owner's family, guests or invitees as and to the extent provided in the Residential Declaration or the Commercial Declaration, as the case may be).

7. No Rights in Public. Nothing herein shall be construed to create any rights for the benefit of the general public in any portion of Waterford, nor shall be construed to effect a dedication of any portion of the Mixed-Use Common Areas to the general public; provided, however, subject to the restrictions of the North Carolina Planned Community Act (if applicable), the Developer shall have the right to dedicate any road, street, access or way within the Mixed-Use Common Areas to the benefit of the public should it elect to do so.

8. Amendment. This Easement shall not be amended unless such amendment is approved by at least sixty-seven percent (67%) of the votes allocated to members of the Residential Association and at least sixty-seven percent (67%) of the votes allocated to members of the Commercial Association. For as long as the Developer retains control over the board of directors of either the Residential Association or the Commercial Declaration, such amendment shall also require the written consent and approval of Developer.

9. Miscellaneous.

(a) This Easement shall run with the title to the Property, and the easements, rights, privileges and benefits created or granted under this Easement shall be binding upon and inure to the benefit of the Owners, the Residential Association, the Commercial Association, the Developer and their respective heirs, successors and assigns.

(b) This Easement shall be enforceable by injunction or by specific performance by the Owners, the Residential Association, the Commercial Association, the Developer and/or their respective heirs, successors and assigns.

(c) This Easement shall be subject to and construed in accordance with the laws of the State of North Carolina.

**[SIGNATURE APPEARS ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, Developer has caused this instrument to be executed as of the day and year first above written.

WDV, INC.

BY: Robert C. A. Gunn  
President

NORTH CAROLINA

NEW HANOVER COUNTY

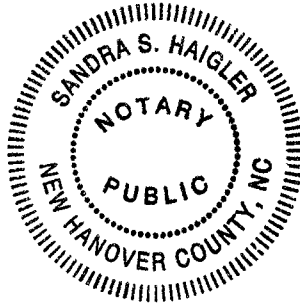
I, Sandra S. Haigler, a Notary Public of the State and County aforesaid, certify that Robert C. A. Gunn personally came before me this day and acknowledged that he is President WDV, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President.

WITNESS my hand and official seal this 7 day of January, 2003.

Sandra S. Haigler  
Notary Public

My commission expires:

3/10/2003



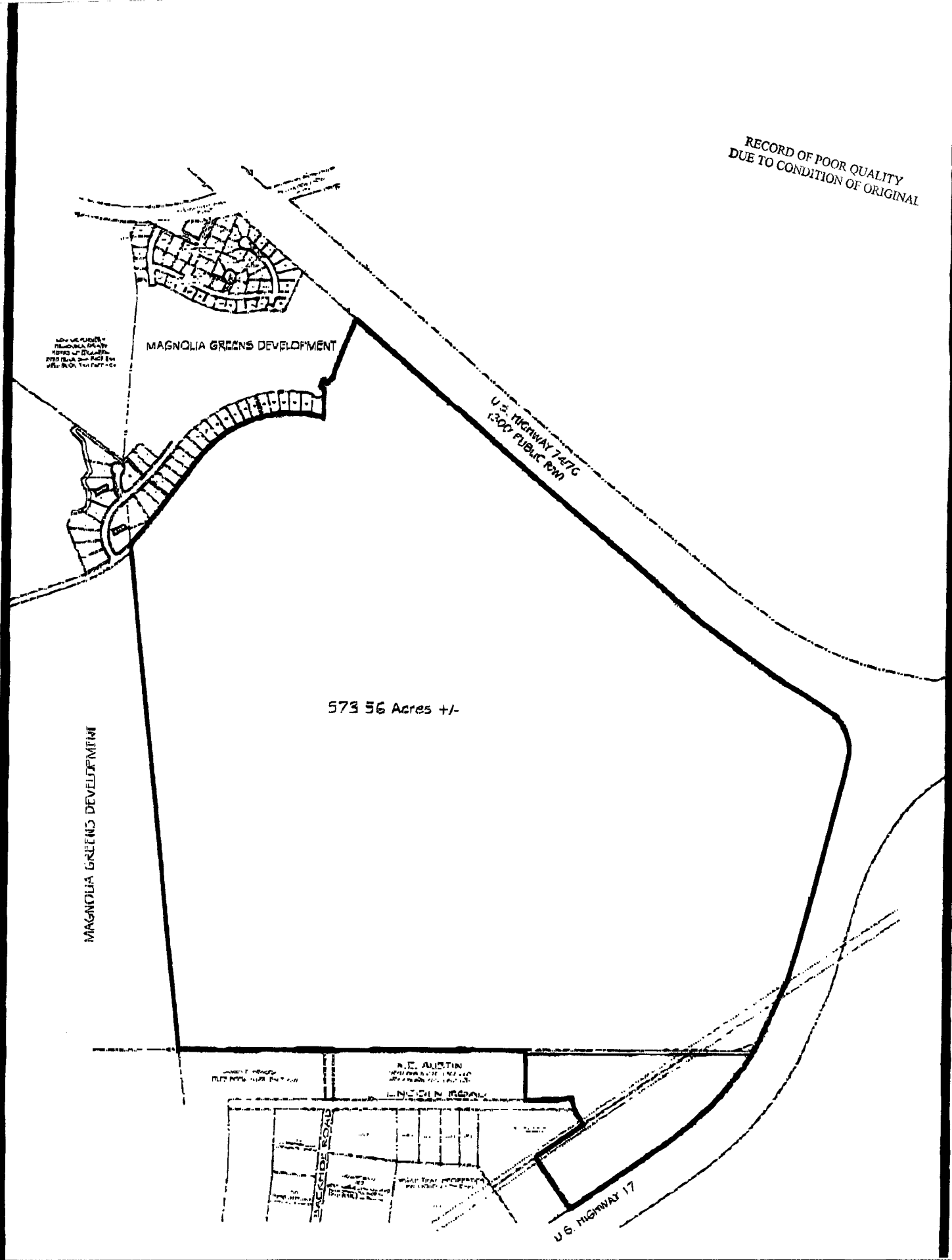
STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

The Foregoing (or annexed) Certificate(s) of SANDRA S HAIGLER

Notary(ies) Public is (are) Certified to be Correct.  
This Instrument was filed for Registration on this 8th Day of January, 2003  
in the Book and page shown on the First Page hereof.

Robert J. Robinson  
ROBERT J. ROBINSON, Register of Deeds

RECORD OF POOR QUALITY  
DUE TO CONDITION OF ORIGINAL



**METES AND BOUNDS DESCRIPTION**  
**PREPARED FOR**  
**MLH, LLC**  
**573.56 ACRES +/-**

RECORD OF POOR QUALITY  
 DUE TO CONDITION OF ORIGINAL

Beginning at the southeast corner of Lot 10, Section 17, Magnolia Greens, recorded at Map Book 23 Page 543, Brunswick County Registry; thence from said Point of Beginning along and with the North right of way line of Pine Harvest Drive (50 feet public right of way) as shown on Map Book 24 Pages 336-338 following a curve to the left (R=1225.00 feet, ARC=185.56 feet) which bears North 40 degrees 18 minutes 47 seconds East, a distance of 185.38 feet to a point; thence continuing along and with the North right of way of Pine Harvest Drive (50' of public right of way) as shown on Map Book 24 Pages 336-338 North 35 degrees 58 minutes 25 seconds East a distance of 653.24 feet to a point; thence continuing along and with the North right of way of Pine Harvest Drive (50' public right of way) as shown on Map Book 24 Pages 336-338 following a curve to the right (R=950.00 feet, ARC=1156.61 feet) which bears North 70 degrees 51 minutes 07 seconds East a chord distance of 1086.49 feet to a point; thence leaving said right of way and along and with the East line of Lot 31R, Section 18 (Revised) Magnolia Greens, Map Book 24 Pages 336-338, Brunswick County Registry, North 00 degrees 20 minutes 24 seconds East a distance of 192.24 feet to a point in the right of way line of Redfield Drive (50 feet public right of way) as shown on Map Book 24 Pages 336-338, Brunswick County Registry following a curve to the left (R=50.00 feet, ARC=88.16 feet) which bears North 24 degrees 09 minutes 05 seconds West a chord distance of 77.18 feet to a point; thence leaving said right of way line North 15 degrees 20 minutes 06 seconds East a distance of 10.00 feet to a point; thence North 69 degrees 09 minutes 02 seconds East a distance of 26.32 feet to a point; thence North 31 degrees 32 minutes 09 seconds West a distance of 27.04 feet to a point; thence North 58 degrees 27 minutes 51 seconds East a distance of 20.00 feet to a point; thence South 31 degrees 32 minutes 09 seconds East a distance of 41.96 feet to a point; thence North 41 degrees 32 minutes 09 seconds East a distance of 81.17 feet to a point; thence North 13 degrees 36 minutes 34 seconds East a distance of 75.21 feet to a point; thence North 22 degrees 01 minutes 14 seconds East a distance of 417.41 feet to a point in the South right of way line of U.S. Highway 74/76 (300' public right of way); thence along and with the South right of way line of U.S. Highway 74/76 (300' public right of way) South 48 degrees 35 minutes 29 seconds East a distance of 1365.11 feet to a point; thence continuing along and with the South right of way line of U.S. Highway 74/76 (300' public right of way) South 48 degrees 35 minutes 13 seconds East a distance of 2145.18 feet to a point; thence continuing along and with the South right of way line of U.S. Highway 74/76 (300' public right of way) South 49 degrees 04 minutes 58 seconds East a distance of 200.30 feet to a point; thence continuing along and with the South right of way line of U.S. Highway 74/76 (300' public right of way) South 53 degrees 35 minutes 31 seconds East a distance of 498.79 feet to a point; thence continuing along and with the South right of way line of U.S. Highway 74/76 (300' public right of way) South 56 degrees 01 minutes

57 seconds East a distance of 328.98 feet to a point; thence continuing along with the South right of way line of U.S. Highway 74/76 (300' public right of way) South 59 degrees 04 seconds 17 minutes East a distance of 202.96 feet to a point; thence continuing along and with the South right of way line of U.S. Highway 74/76 (300' public right of way) South 56 degrees 23 minutes 37 seconds East a distance of 179.92 feet to a point; thence continuing along and with the South right of way line of U.S. Highway 74/76 (300' public right of way) following a curve to the right (R=373.00 feet, ARC= 439.62 feet) which bears South 22 degrees 39 minutes 24 seconds East a chord distance of 414.61 feet to a point in the West right of way line of U.S. Highway 17 (340' public right of way); thence along and with the West right of way line of U.S. Highway 17 (340' public right of way) South 11 degree 09 minutes 00 seconds West a distance of 179.20 feet to a point; thence continuing along and with the West right of way line of U.S. Highway 17 (340' public right of way) South 14 degrees 06 seconds 52 minutes West a distance of 547.29 feet to a point; thence continuing along and with the West right of way line of U.S. Highway 17 (340' public right of way) South 14 degree 47 minutes 01 seconds West a distance of 924.92 feet to a point; thence South 16 degree 05 minutes 36 seconds West a distance of 193.65 feet to a point; thence continuing along and with the West right of way line of U.S. Highway 17 (340' public right of way) South 23 degrees 17 minutes 35 seconds West a distance of 555.81 feet to a point; thence continuing along and with the West right of way line of U.S. Highway 17 (340' public right of way) following a curve to the right (R=2462.29 feet, ARC=257.62 feet) which bears South 30 degrees 37 minutes 21 seconds West a chord distance of 257.51 feet to a point; thence continuing along and with the West right of way line of U.S. Highway 17 (340' public right of way) following a curve to the right (R=2358.38 feet, ARC=763.01 feet) which bears South 43 degrees 14 minutes 47 seconds West a chord distance of 759.69 feet to a point; thence continuing along and with the West right of way line of U.S. Highway 17 (340' public right of way) South 51 degrees 44 minutes 37 seconds West a distance of 101.27 feet to a point; thence continuing along and with the West right of way line of U.S. Highway 17 (340' public right of way) South 54 degrees 16 minutes 51 seconds West a distance of 193.91 feet to a point; thence continuing along and with the West right of way line of U.S. Highway 17 (340' public right of way) South 55 degrees 14 minutes 33 seconds West a distance of 138.99 feet to a point in the proposed East right of way line of Poole Road (100' proposed public right of way) at its intersection with the West right of way of U.S. Highway 17 (340' public right of way); thence continuing along and with the west right of way of U.S. Highway 17 (340' public right of way) South 55 degrees 01 minutes 26 seconds West a distance of 50.00 feet to a point in the centerline of Poole Road (100' proposed right of way) at its intersection with U.S. Highway 17 (340' public right of way); thence continuing along and with the West right of way of U.S. Highway 17 (340' public right of way) South 55 degrees 01 minutes 26 seconds West a distance of 50.00 feet to a point in the West right of way of Poole Road (100' proposed right of way) at its intersection with the West right of way U.S. Hwy 17 (340' public right of way); thence continuing along and with the West right of way of U.S. Highway 17 (340' public right of way) South 54 degrees 59 minutes 55 seconds West a distance of 464.44 feet to a point; thence leaving said right of way, along and with the now or formerly Alpha America Tract as recorded at Book 1383 Page 920 Brunswick County Registry North 34 degrees 59 minutes 52 seconds West a distance of

RECORD OF POOR QUALITY  
DUE TO CONDITION OF ORIGINAL

495.75 feet to a point; thence along and with the centerline of an 80' easement to Brunswick Electric Membership Corporation as recorded at Book 160 Page 5 Brunswick County Registry North 55 degrees 00 minutes 27 seconds East a distance of 464.44 feet to a point in the southwest right of way Poole Road (100' Proposed right of way); thence continuing along and with the southwest right of way line of Poole Road (100' proposed right of way) following a curve to the right (R=682.31 feet, ARC=115.31 feet) which bears North 29 degrees 58 minutes 12 seconds West a chord distance of 115.31 feet to a point; thence continuing along and with the southwest right of way line of Poole Road (100' proposed public right of way) North 34 degrees 57 minutes 43 seconds West a distance of 24.17 feet to a point in the South right of way of Lincoln Road (Public right of way varies); thence crossing Lincoln Road (public right of way varies) North 10 degrees 40 minutes 04 seconds West a distance of 105.79 feet to a point in the North right of way line of Lincoln Road (public right of way varies); thence along and with the North right of way of Lincoln Road (public right of way varies) South 72 degrees 22 minutes 33 seconds West a distance of 35.22 feet to a point; thence continuing along and with the North right of way of Lincoln Road (public right of way varies) South 80 degrees 18 minutes 53 seconds West a distance of 81.84 feet to a point; thence continuing along and with the North right of way line of Lincoln Road (public right of way varies) South 89 degrees 46 minutes 18 seconds West a distance of 260.50 feet to a point, thence leaving the North right of way line of Lincoln Road (public right of way varies) along and with the East line of the Now or Formerly K.E. Austin Tract, Book 296 Page 628 and Book 795 Page 631, Brunswick County Registry North 00 degrees 13 minutes 42 seconds West a distance of 402.07 feet to a point; thence along and with the North line of the Now or Formerly K.E. Austin Tract, Book 296 Page 628 and Book 795 Page 631, Brunswick County Registry, and the North line of the Now or Formerly James F. Rogers Tract, Book 1073 Page 728, Brunswick County Registry South 89 degrees 47 minutes 25 seconds West a distance of 2784.33 feet to a point; thence North 5 degrees 55 minutes 20 seconds West a distance of 4103.66 feet to the point of beginning containing 573.56 acres more or less.

RECORD OF POOR QUALITY  
DUE TO CONDITION OF ORIGINAL