

**PLANNING STAFF REPORT**  
**Zoning Map Amendment**

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**SUMMARY:**

**Hearing Date:** May 6, 2014 – Planning Board  
June 16, 2014 – Board of Commissioners  
**Case Number:** 11153 – Harold Harris (ZMA)  
**Applicant:** Harold Harris  
**Property Owner:** Same

**Rezoning Proposal:** Harold Harris, applicant and owner, is requesting approval of a Zoning Map Amendment for a general use rezoning for a 0.89 acre tract from the GB, General Business to the RP, Residential Performance zoning district.

**Property Record Number, Acreage, and Location:** The subject property is located at 25540 US HWY 17 S Surf City, NC 28445, and may be identified by Pender County PIN 4226-97-2074-0000. There is one tract associated with this request totaling 0.89 acres.

**Staff Recommendation:** The request complies with all criteria set forth in Article §3.3.8 of the *Pender County Unified Development Ordinance* and complies with one (1) policy in the *2010 Comprehensive Land Use Plan*, while conflicting with none. Staff respectfully recommends that the request be approved.

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**HISTORY:**

This property was zoned B-3 prior to the adoption of the 2010 Unified Development Ordinance, at which time it was rezoned to GB, General Business.

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**DESCRIPTION:**

Harold A. Harris, applicant and owner, is requesting approval of a zoning map amendment for a general use rezoning of .89 acres from GB, General Business to RP, Residential Performance zoning district. The property is located along the north side of US HWY 17 S, approximately 130' southeast of the Pender County/Onslow County boundary and may be identified by Pender County PIN: 4226-97-2074-0000.

According to the narrative, the applicant would like to place a residential structure on the property. However, the property is currently zoned GB, General Business, and per the Pender County UDO, manufactured home residential structures are not allowed in the General Business district (§5.3.2). Therefore, the applicant is applying for a general use rezoning to change the property from GB, General Business, to RP, Residential Performance.

Due to the fact that the parcel in question is adjacent to a parcel(s) of land that is currently zoned RP, Residential Performance, this tract of land meets the minimum rezoning acreage requirement of 5 acres for the RP.

In general, as the General Business district is a commercial classification this rezoning from GB → RP (A residential classification) results in the allowance of fewer “intensive” uses.

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**PROJECT EVALUATION:**

This zoning map amendment request has been evaluated for compliance with the Pender County Unified Development Ordinance and the Pender County Comprehensive Land Use Plan, as well as the existing land uses and zoning classifications in the surrounding area. The relevant sections of the UDO are included in Attachment A.

- A. *Public Notifications:*** Public Notice of the proposal for map change has been advertised in the *Pender-Topsail Post and Voice*. Adjacent property owners have been given written notice of the request, as well as a sign placed on the subject property.
- B. *Existing Zoning:*** The surrounding zoning classifications are, General Business to the north, Rural Agricultural across US HWY 17, Residential Performance to the east, and C-3 extended (entranceway) commercial district (Town of Surf City) to the south.
- C. *Existing Land Use:*** The property is bordered to the north and east by vacant wooded tracts, to the south by a vacant commercial structure and the Topsail Air Park is located across US HWY 17.
- D. *2010 Comprehensive Land Use Compliance:*** The 2010 Comprehensive Land Use Plan designates the subject property “Mixed Use.” The Mixed Use land use classification designates locations where a mixture of higher density/intensity uses is to be encouraged. Mixed Use areas should be characterized by physically and aesthetically unified developments containing a mixture of commercial, office, institutional, and high- and medium-density residential uses, arranged in a walkable, compact, pedestrian and transit friendly manner.
  - a. *Preferred Development Patterns Policy 3A.1.4:*** *Consistently use the Comprehensive Land Use Plan, as well as other plans and studies, to determine if a rezoning request is appropriate and consistent with local policies.*
- E. *Unified Development Ordinance Compliance:*** This is a general use rezoning which will allow all uses permitted-by-right in the RP, Residential Performance zoning district. The RP zoning district is defined as follows: (“The Residential Performance District is intended to allow a variety of residential uses and densities and also limited commercial activities as well as agritourism. Existing or new agricultural and farm uses shall be allowed on undeveloped land prior to development.” (§ 4.7.2))

**3.3.8 Review Criteria for Rezoning**

*The Planning Board and Board of Commissioners shall consider the following matters in considering a rezoning request:*

- A. *Whether the range of uses permitted by the proposed change would be appropriate to the area concerned (including not being detrimental to the natural environment, not adversely affecting the health or safety of residents or workers in the area, not being detrimental to the use or development of adjacent property, and not materially or adversely affecting the character of the general neighborhood);*
- B. *Whether adequate public facilities/services (i.e., water, wastewater, roads) exist, are planned, or can be reasonably provided to serve the needs of any permitted uses likely to be constructed as a result of such change;*
- C. *Whether the proposed change is consistent with the County's Comprehensive Land Use Plan and CAMA Land Use Plan or any other adopted land use document.*
- D. *Whether the proposed amendment is reasonable as it relates to the public interest.*

**F. Summary and Administrator Recommendation:** The application consists of rezoning 2.44 acres of a 4.62 acre tract from GB, General Business, to RA, Rural Agricultural. As submitted, the application is in compliance with the standards of the Pender County Unified Developed Ordinance and not in direct conflict of the Comprehensive Land Use Plan. Staff respectfully recommends approval for this general use rezoning.

**Board Action for Zoning Map Amendment:**

Motion: \_\_\_\_\_ Seconded \_\_\_\_\_

Approved: \_\_\_\_\_ Denied: \_\_\_\_\_ Unanimous \_\_\_\_\_

Williams: \_\_\_\_ McClammy: \_\_\_\_ Boney: \_\_\_\_ Edens: \_\_\_\_ Marshburn: \_\_\_\_ Nalee: \_\_\_\_\_

UDO §3.3.1 General Use Rezoning

- A. Amendments to the Zoning Map, also called a Rezoning, shall be made in accordance with the provisions of this Section and shall follow the review process as shown in Figure 1 at the end of Section 3.4.
- B. The County Commissioners shall approve or deny amendments to the Zoning Map of Pender County, as may be required from time to time.
- C. Rezoning must correspond with the boundary lines of existing platted lots or tracts. Where the boundaries of a rezoning request do not follow a boundary line or a split zoned property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this Ordinance. An illustration containing a metes and bounds description is required.
- D. All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, the rezoning shall be expanded to include all property necessary to meet zoning requirements.
- E. Must show substantial compliance with the goals and policies of the Comprehensive Land Use Plan.

UDO §3.3.6 Action by Planning Board

- A. Before making any recommendation on a rezoning request, the Planning Board shall consider any recommendations from the Administrator and shall conduct a public hearing where interested parties may be heard.
- B. The Planning Board shall make a recommendation based on the Approval Criteria listed in 3.3.8.
- C. Following Planning Board review and recommendation, the completed request, Planning Board recommendation, staff recommendation and any related materials shall be forwarded to the County Commissioners.
- D. If the Planning Board fails to make a recommendation within 75 days following the date of the first hearing on the request, the County Commissioners may process the request without a recommendation.

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- B. Whether adequate public facilities/services (i.e., water, wastewater, roads) exist, are planned, or can be reasonably provided to serve the needs of any permitted uses likely to be constructed as a result of such change;
- C. Whether the proposed change is consistent with the County’s Comprehensive Land Use Plan and CAMA Land Use Plan or any other adopted land use document.
- D. Whether the proposed amendment is reasonable as it relates to the public interest.

UDO §5.2.3 Permitted Use Table (segment)

	Zoning Districts										
Use Type	NAICS	RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
Manufactured Home		P	D		P						