

Pender County Planning and Community Development

Planning Division

805 S. Walker Street
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AGENDA

**Pender County Board of Adjustment Meeting
September 19, 2012 9:00 a.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina**

Call to Order: Chairman Ferrante

Invocation:

Roll Call: Chairman Ferrante

Pender County Board of Adjustment Members:

Ferrante: _____ Pullen: _____ Kane: _____ Newton: _____ Thompson: _____

Alternates:

Luther: _____ Peters: _____

1. Adoption of the Agenda:

2. Approval of Minutes: August 15, 2012

3. Public Comment

** Public Hearing**

4. **Variance:** Jensen's Coastal Plantation, applicant, on behalf of Jensen's Inc., owner, is requesting a 5' 6" variance from the minimum front yard setback requirement of twenty (20') feet for a manufactured home community as prescribed by the Pender County Unified Development Ordinance Section 5.3.2.D (5), Manufactured Home Community Dimensional Requirements. The property is located at 531 Loblolly Trail, Hampstead, and may be identified by Pender County PIN 3292-39-3667-0000. The property is zoned RP, Residential Performance District.

5. Discussion Items:

- a. BOA Members
- b. Planning Staff
 - i. Update on Portable Storage Containers

6. Adjournment:

**PLANNING STAFF REPORT
VARIANCE**

SUMMARY:

Hearing Date: September 19, 2012

Applicant: Jensen's Coastal Plantation

Property Owner: Jensen's Inc.

Case Number: 10770

Property Location and Description: The property is located at 531 Loblolly Trail and may be identified by Pender County PIN 3292-39-3667-0000.

Zoning District of Property: The property is zoned RP, Residential Performance District.

Variance Requested: The applicant is requesting a 5' 6" variance from the minimum front yard setback requirement of twenty (20') feet for a manufactured home community as prescribed by the Pender County Unified Development Ordinance Section 5.3.2.D (5), Manufactured Home Community Dimensional Requirements.

BACKGROUND AND DESCRIPTION OF VARIANCE:

Jensen's Coastal Plantation, applicant, on behalf of Jensen's Inc., owner, is requesting a 5' 6" variance from the minimum front yard setback requirement of twenty (20') feet for a manufactured home community. The variance request is to accommodate a 715 square foot addition to an existing structure which will serve as the community's sales and leasing office.

Jensen's Coastal Plantation was initially established in 1982, prior to the Zoning Ordinance adoption in 1988. The development received approval for subsequent expansions in 1992 and 2003. The existing structure, built in 1996, currently lies 38 feet from the property line, and is in compliance with current setback regulations. Due to the existing site design and environmental constraints as outlined in the applicant's narrative, the applicant is requesting a variance to locate the addition in the front yard adjacent to Loblolly Trail.

ZONING ADMINISTRATOR'S CONCLUSIONS:

The applicant is requesting a 5' 6" variance from the minimum front yard setback requirement of twenty (20') feet for a manufactured home community as prescribed in the Pender County Unified Development Ordinance, Section 5.3.2 D, Manufactured Home Community Dimensional Requirements.

APPLICABLE UNIFIED DEVELOPMENT ORDINANCE PROVISIONS

3.14 VARIANCE

3.14.1 Applicability

- A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
- B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
- C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
- D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
- E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.
- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated elsewhere in this Ordinance.

3.14.7 Findings

In granting any variance, the Board of Adjustment shall make the following findings:

- 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) That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Building Official before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;
 - 2) That the strict enforcement of this Ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Ordinance;
 - 3) That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;
 - 4) That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance;
 - 5) That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and
 - 6) That the variance will not result in the expansion of a nonconforming use.
 - 7) In the case of expansions to nonconforming structures, the variance granted shall be the smallest that is reasonably necessary.
- 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.

5.3.2.D (5) **Manufactured Home Community Dimensional Requirements**

Minimum Lot Width	50 Feet
Minimum Front Yard Setback	20 Feet
Minimum Side Yard Setback	10 Feet
Minimum Rear Yard Setback	20 Feet
Minimum Structure Separation	20 Feet
Minimum Exterior Property Boundary Setback	20 Feet

Appendix A – Definitions

Addition: A structure added to the original structure at some time after the completion of the original.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any persons, animals, processes, equipment, goods or materials of any kind.

Manufactured Home Community: A parcel (or contiguous parcels) of land where manufactured homes are parked for living and sleeping purposes. May also be known as; a mobile home community, mobile home park, or manufactured home park.

Setback: The required distance between a building or structure and a lot line.

- 1. Setback, front yard:** The required distance between a street right-of-way line and the front line of a building or structure.
- 2. Setback, rear yard:** The required distance between a building or structure and the rear lot line of the lot containing the building or structure.
- 3. Setback, side yard:** The required distance between a building or structure and the side lot line of the lot containing the building or structure.

Board of Adjustment: Finding of Facts

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does/does not** result from extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district. This conclusion is based on the following FINDINGS OF FACT:

2. It is the Board's CONCLUSION that, granting the variance requested **will/will not** confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:

3. It is the Board's CONCLUSION that a literal interpretation of the provisions of this ordinance **would/would not** deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT:

4. It is the Board's CONCLUSION that the requested variance **will/will not** be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. This conclusion is based on the following FINDINGS OF FACT:

5. It is the Board's CONCLUSION that, the special circumstances **are / are not** the result of the actions of the applicant. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

Board Action:

Motion: _____ **Seconded:** _____

Approved: _____ **Denied:** _____ **Unanimous:** _____

Ferrante: ____ **Pullen:** ____ **Kane:** ____ **Newton:** ____ **Thompson:** ____

Alternates:

Luther: ____ **Peters:** ____

APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA 10770	Date	8/13/12
Application Fee	\$ 250.00	Receipt No.	121422
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	JENSEN'S CASUAL PLANTATION	Owner's Name:	JENSENS INC
Applicant's Address:	133 NANOINA DR.	Owner's Address:	246 REDSTONE ST.
City, State, & Zip	HAMPSTEAD, NC 28443	City, State, & Zip	SOUTHINGTON, CT 06489
Phone Number:	910-270-3520	Phone Number:	860-793-0281
Legal relationship of applicant to land owner: <i>COMMUNITY MANAGER</i>			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3292-39-3667-0000	Total property acreage:	64 ACRES
Zoning Classification:	RP-15	Variance Size:	4 ACRES
Variance Location & Address	531 Lobbly Trail HAMPSTEAD, NC 28443		
Describe Variance and amount or type requested:	5'6" VARIANCE FROM FRONT R/W FOR SALES OFFICE ADDITION TO EXISTING BLDG.		
SECTION 3: SIGNATURES			
Applicant's Signature	<i>[Signature]</i>	Date:	8/13/2012
Owner's Signature	<i>[Signature]</i> T.V.P. JENSEN INC	Date:	8/13/2012
NOTICE TO APPLICANT:			
<ol style="list-style-type: none"> 1. The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements. 2. All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval. 3. An application for a variance shall be submitted in accordance with application requirements. 4. Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage. 5. The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues. 6. Applicant must also submit the information described in the Variance Checklist provided below. 7. Applicant or agent authorized in writing must attend the public hearing. 8. 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. 			
OFFICE USE ONLY			
ET VA Fees \$250		Total Fee Calculation \$	
Payment Method:	Cash: <input type="checkbox"/> \$ _____	Credit Card: <input checked="" type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input type="checkbox"/> Check # _____
Application received by:	<i>[Signature]</i>	Date:	8/13/12
Application completeness approved by:	<i>[Signature]</i>	Date:	8/13/12
Date scheduled for public hearing:	8/19/12		

Jensen's Coastal Plantation
531 Loblolly Trail
Variance Request

We are respectfully requesting a variance of 5' 6" from the front right of way setback for the purposes of putting a 715 square foot office addition onto an existing building. The existing building was constructed in 1996. We are constructing the addition on the front side of the existing building to keep from moving carport and storage building from their locations behind the building and thus having to disturb more natural area to make room for the addition. The area to the left (or east) of the building has been and is currently our RV storage for the community and we would prefer not to disturb and clear any of the surrounding natural area or encroach on wetlands area to make room for the storage of these vehicles.

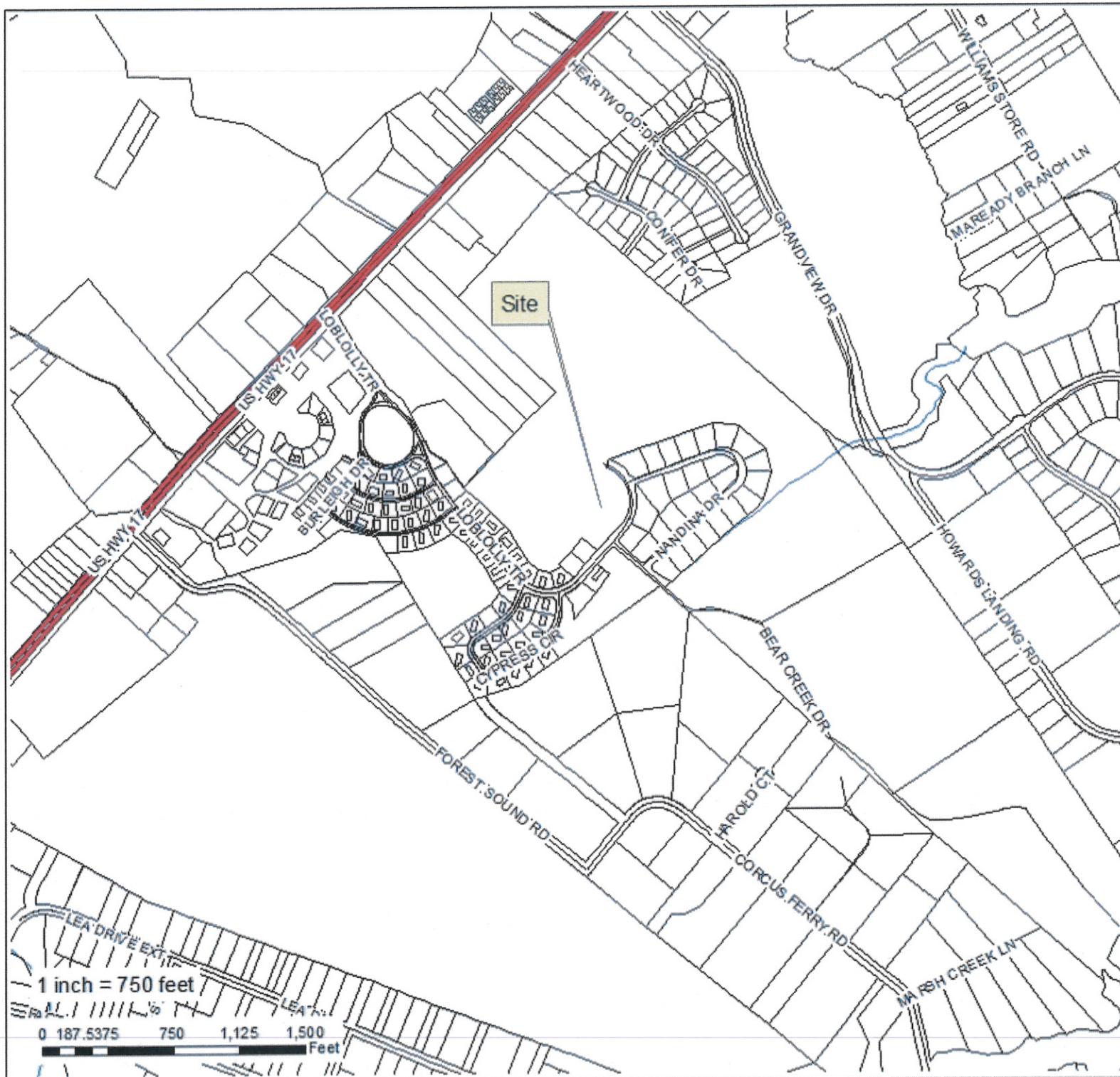
This is the reasoning for using the front of the existing building for the 715 sq. ft. addition; all utilities (water, electric, etc.) run approximately 8' from the road edge which addition (in its current proposed location) would be approximately 32' from the roads edge.



Applicant:
Jensen's Coastal Plantation

Owner:
Jensen's Inc.

Variance
Case # 10770



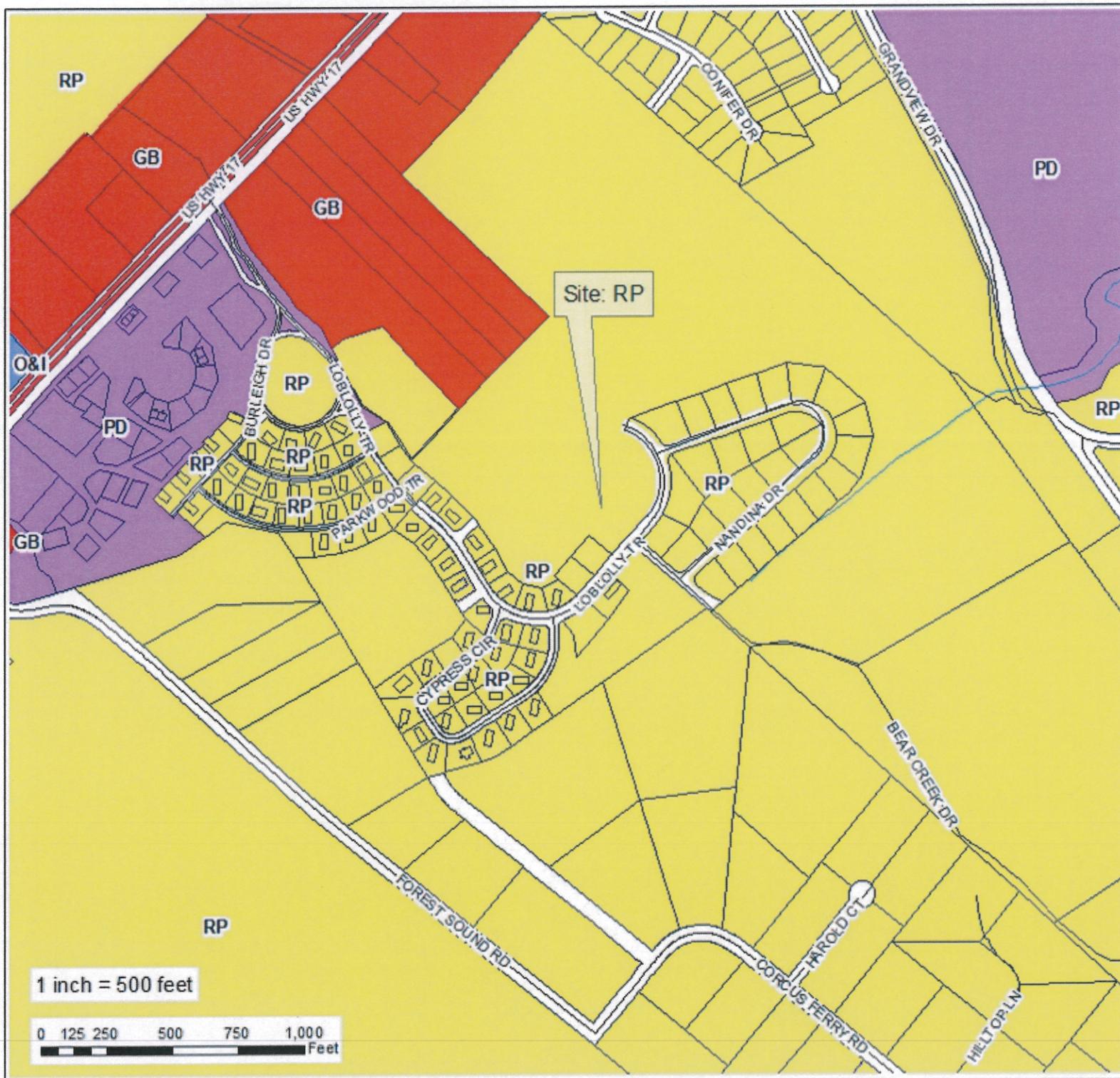
Vicinity Map



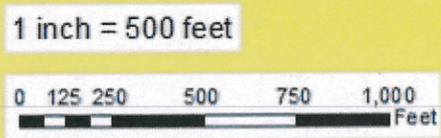
Applicant:
Jensen's Coastal Plantation

Owner:
Jensen's Inc.

Variance
Case # 10770



Zoning Classification	
UDO Zoning	
	General Business (GB)
	General Industrial (GI)
	Industrial Transition (IT)
	Office & Institutional (OI)
	Rural Agricultural (RA)
	Planned Development (PD)
	Residential Performance (RP)
	Environmental Conservation (EC)
	Incorporated Areas (INCRP)
	Manufactured Home Park (MH)
	Residential Mixed (MF)



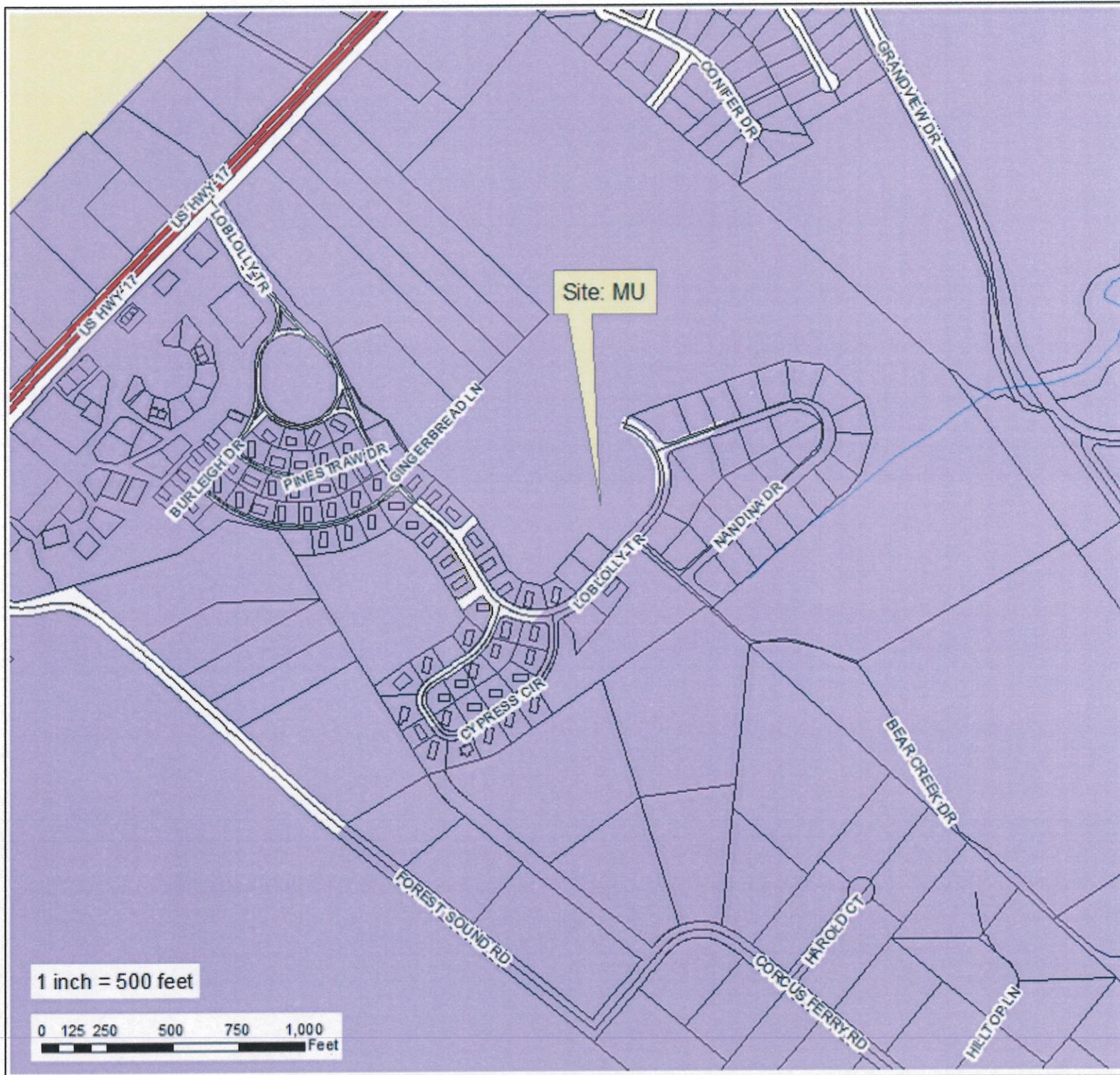
Zoning Map



Applicant:
Jensen's Coastal Plantation

Owner:
Jensen's Inc.

Variance
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Future Land Use
LU

- Conservation
- Industrial
- Mixed Use
- Rural Growth
- Suburban Growth



2010
Comprehensive
Future Land Use



Applicant:
Jensen's Coastal Plantation

Owner:
Jensen's Inc.

Variance
Case # 10770



2010 Orthos