

# REQUEST FOR BOARD ACTION / CONTRACT CONTROL FORM

Tracking Number: 19.

Date of Request: August 4, 2008

Date Request Received:

Board Meeting Date Requested: August 18, 2008

Board Meeting Date Assigned:

**Short Title:** Thomas H. Johnson, Jr., Attorney, Applicant, On Behalf Of Jacquelyn Miley Kelly, Et Al, Owners, Are Requesting One Tract Totaling 8.7 Acres To Be Rezoned From RT, Rural Transitional District, To B-2, Business District (Highway).

**Request Status:**

- Request is proceeding to Board of Commissioners
- More information is needed – see attached
- Request on hold – no further information needed
- Other:

**Background:** The property is located along the northeast corner of Buccanear Blvd. and US Hwy 17, Topsail Township, NC.

(Administrative Use Only)

**Specific Action Requested:** The Board of Commissioners is requested to hold a public hearing for a rezoning

**CONTRACT TYPE**

Requested by: Planning Staff  
Department: Planning Department  
Title: Planning  
Contact Phone: 910.259.1202  
Contact Fax: 910.259.3735

- Renewal
- For Service(s)
- Intergovernmental – County as Grantee
  - Federal Grantor
  - State Grantor
  - Grantor
- County as Grantor
  - County Funds
  - Other Funds:
- Revision
- For Equipment

**PURCHASING** Budgeted Item:  Yes  No  
Date Rec'd:  Reviewed and Approved  
 Comments on Reverse

Date Sent:

Signed:

**ATTORNEY**  Reviewed and Approved  
Date Rec'd:  Legal Problem(s)  
 Comments on Reverse

Date Sent:

Signed:

**FINANCE** Sufficient Funds  Available  
Date Rec'd  Not Available  
 Budget Amendment Necessary  
 Budgeted Amendment is Attached  
 Comments on Reverse

Date Sent:

Signed:

**CLERK** Signature(s) Required:  
 Board Chairman/County Manager  
 Other:

Date Rec'd Approved by Board:  Yes  No  
At meeting on

**INTRODUCED BY:** Planning Staff    **DATE:** August 18, 2008    **ITEM NO:** 19.

**TITLE:** Zoning Map Amendment, Thomas H. Johnson, Jr., Attorney

**SUBJECT: PROPERTY PARCEL ID NO:** 4215-56-2770-0000

**APPLICANT:** Thomas H. Johnson, Jr., Attorney

**OWNERS:** Jacquelyn Miley Kelly, Dan Kelly, Trista A. Nelson

**ACTION REQUESTED:** Applicant is requesting 8.70 acres, be rezoned from RT, Rural Transitional District, to B-2, Business District (Highway).

**HISTORY/BACKGROUND:**

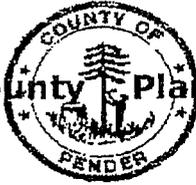
**Location of Property:** The property is located along the northeast corner of Buccaneer Boulevard and US Highway 17, approximately 1 mile south of the NC Highway 210 E. and US Highway 17 intersection, Topsail Township, NC. (See attached vicinity map).

**Description of Proposal:** The proposal consists of rezoning 8.70 acres from RT, Rural Transitional District, to B-2, Business District (Highway). The purpose of the B-2 zoning district is to provide for the proper grouping and development of roadside business uses which will best accommodate the needs of the motoring public and businesses demanding high volume traffic. This is a general use rezoning (See attached project narrative).

**EVALUATION:**

- A) Public Notifications:** Public Notice of the proposal for map change has been advertised in the Pender Post and Topsail Voice and adjacent property owners have been given written notice of the request.
- B) Existing Zoning in Area:** The property along the US Highway 17 corridor in this area is all zoned RT, Rural Transitional. There is R-20, Residential District zoning along the rear and across Buccaneer Boulevard, adjacent to the western corner of the tract (See attached zoning map).
- C) Existing Land Use in Area:** The rear of the property abuts single-family residences, this tract does have road frontage along US Hwy 17, and there is one single family structure across Buccaneer Blvd. along with vacant tracts.
- D) 2005 Land Use Plan Compliance:** The 2005 Land Use Plan classifies this property as Urban Growth Area. This rezoning request is consistent with the 2005 Land Use Plan (See attached CAMA Land Use Map).
- E) Zoning Ordinance Compliance:** Section 5.3 of the Zoning Ordinance provides for standards that shall be followed by the Planning Board before a favorable recommendation of approval for rezoning can be made.
- F) Summary & Staff Recommendation:** The proposal consists of rezoning 8.7 acres, from RT, Rural Transitional District, to B-2, Business District (Highway). The request is consistent with the 2005 CAMA Land Use Plan and the location of the tract is in compliance with Pender County's Zoning Ordinance definition of B-2 zoning.
- G) Pender County Planning Board Recommendation:** The Pender County Planning Board, at its July 1, 2008 meeting, recommended approval by a unanimous vote of this rezoning request.





# Pender County Planning Department

805 South Walker Street  
Burgaw, North Carolina 28425

Phone (910) 259-1202  
Fax (910) 259-1295

Email: [planning1@pender-county.com](mailto:planning1@pender-county.com)

## PLANNING BOARD APPLICATION FOR ZONING MAP AMENDMENT

Date <u>5/16/2008</u>	Application Fee <u>\$ 200.00</u>	Receipt No. <u>081885</u>
<del>Application No. _____</del>	Postage Fee <u>\$ 133.00</u>	Receipt No. <u>081886</u>

**I. PROPERTY INFORMATION:**

Record #: 4215-56-2770-0000 Current Zoning District: RT

Tax Map #: \_\_\_\_\_ Requested Zoning District: B-2

Lot #: \_\_\_\_\_ Acreage to Be Rezoned: 8.70 acres

Total Acreage of Tract: 8.70

Property Location: Northeast corner of U.S. Hwy 17 and Buccaneer Boulevard

Reason for Rezoning: See attached

**II. REQUIRED NAMES:**

Applicant <u>Thomas H. Johnson, Jr., Atty</u>	Owner <u>Jacquelyn Miley Kelly</u>
Address <u>P.O. Box 30188</u>	Address <u>Dan Kelly and Trista A. Nelson</u>
<u>Raleigh, NC 27622</u>	<u>11313 Empire Lakes Drive</u>
Phone (919) <u>786-2764</u> Fax (919) <u>788-1104</u>	Phone _____ Fax _____
Email <u>tjohnson@nexsenpruet.com</u>	Email <u>djkelly@nc.rr.com</u>

Legal Relationship of Applicant to Property Owner: Attorney

**III. SIGNATURE OF OWNER & APPLICANT:**

[Signature] [Signature]  
 Jacquelyn Miley Kelly  
 Dan Kelly  
 Trista A. Nelson

(If owner is different from applicant, both signatures are required) Trista A. Nelson

**Thomas H. Johnson, Jr.**  
Special Counsel  
Admitted in NC

May 16, 2008

**BY HAND DELIVERY**

Mr. Kyle Breuer  
Pender County Planning Department  
805 South Walker Street  
Burgaw, NC 28425

Re: Rezoning Request for Jacquelyn Miley Kelly et als.

Dear Kyle:

I enjoyed talking with you yesterday about the enclosed rezoning request. Enclosed you will find a completed Application for a Zoning Map Amendment for Tax PIN No. 4215-56-2770-0000, located on the northeast corner of Highway 17 and Buccaneer Boulevard ("Property"). The Property contains 8.70 acres and is currently zoned RT-Rural Transition. We are requesting that the Property be rezoned to B-2-Business District (Highway).

Charleston  
Charlotte  
Columbia  
Greensboro  
Greenville  
Hilton Head  
Myrtle Beach  
Raleigh

Section 8.4 of the Pender County Zoning Ordinance describes the intent of B-2 is "to provide for the proper grouping and development of roadside business uses which will best accommodate the needs of the motoring public and business demanding high volume traffic." The Property is on Highway 17, a major thoroughfare, and is larger than 5 acres. Properties along Highway 17 have been recognized as appropriate for commercial development to serve as a buffer between Highway 17 and residential development and because of the Property's convenient access. The Property provides an ideal location for roadside business uses given its size and location on a major transportation corridor.

In the Pender County Land Use Plan, this area and the areas along Highway 17 are designated as "Urban Growth Area." Urban Growth Area is intended for commercial uses because of its access to the regional transportation system. Therefore, this request is consistent with the Land Use Plan.

Given the location of this Property and its size, it is appropriate for B-2 Highway Business in order to meet the needs of the motoring public using Highway 17. The

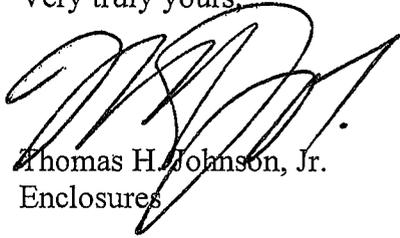
251 Blue Ridge Road (27607) T 919.786.2764  
Suite 150 F 336.387.8930  
P.O. Box 30188 E TJohnson@nexsenpruet.com  
Raleigh, NC 27622 Nexsen Pruet, PLLC  
www.nexsenpruet.com **Attorneys and Counselors at Law**

Pender County Planning Department  
May 16, 2008  
Page 2

rezoning will complement that area as it provides opportunity for commercial, service and related uses to be located convenient to local residents. In this time of high fuel prices, placing retail and service uses convenient to residents reduces travel time for residents and associated fuel use. Putting the uses in B-2 in a location convenient to residential development and the traveling public is the goal of the B-2 District and the Urban Growth designation of the Land Use Plan. Large tracts such as the Property have been targeted by the Zoning Ordinance and the Land Use Plan as appropriate for rezoning to B-2 to accommodate commercial growth. The Property has significant road frontage and is 60% larger than the minimum size required in the B-2 zone.

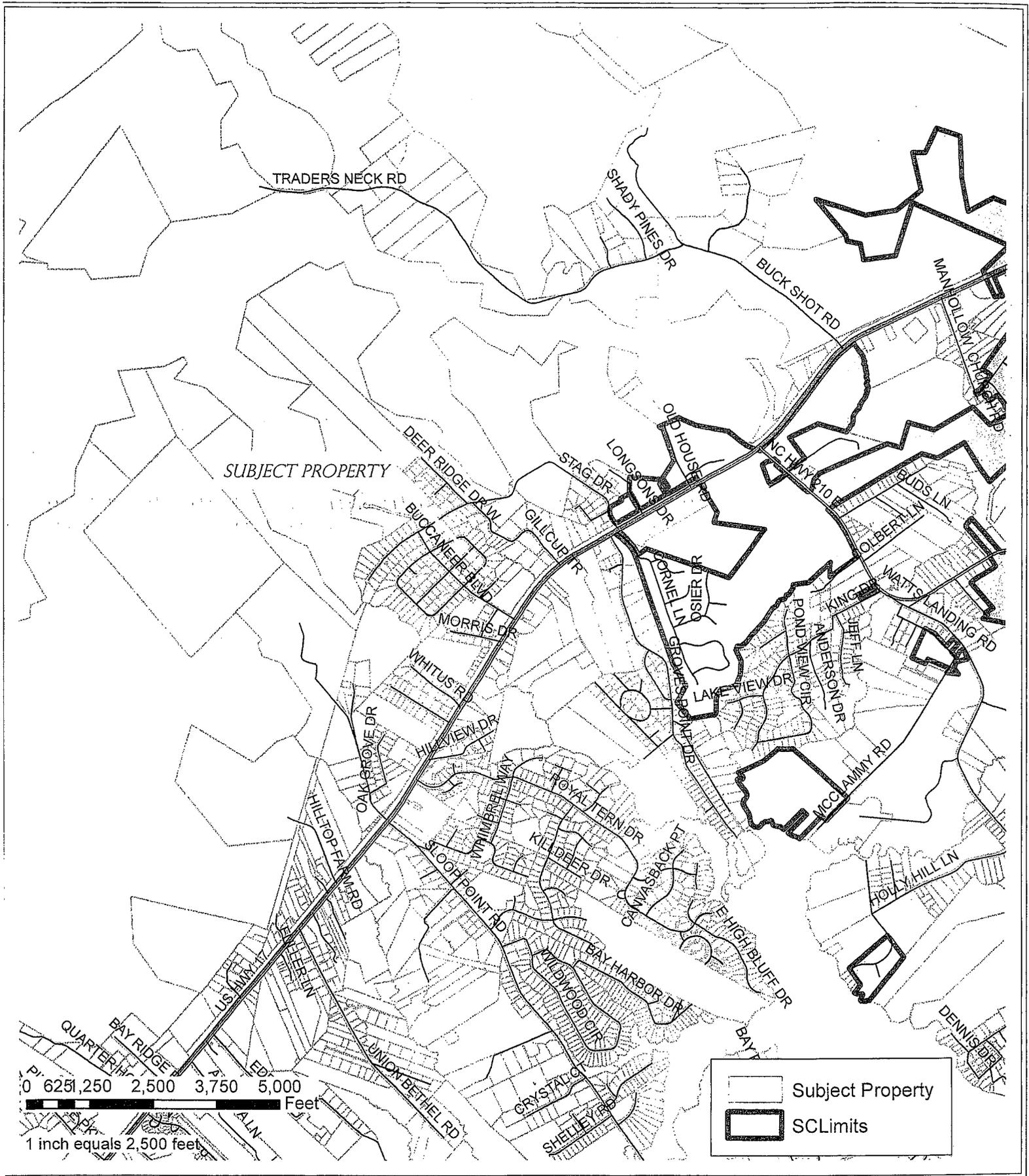
We ask that this request be scheduled for the July Planning Board Meeting. I am in the process of obtaining the necessary copies of a survey of the Property and will submit that to you next week. If we are short any envelopes or certified mail receipts, please let me know. If you have any questions or would like to discuss our request further, please do not hesitate to contact me. I look forward to working with you.

Very truly yours,

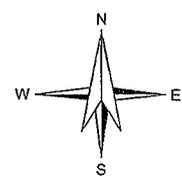


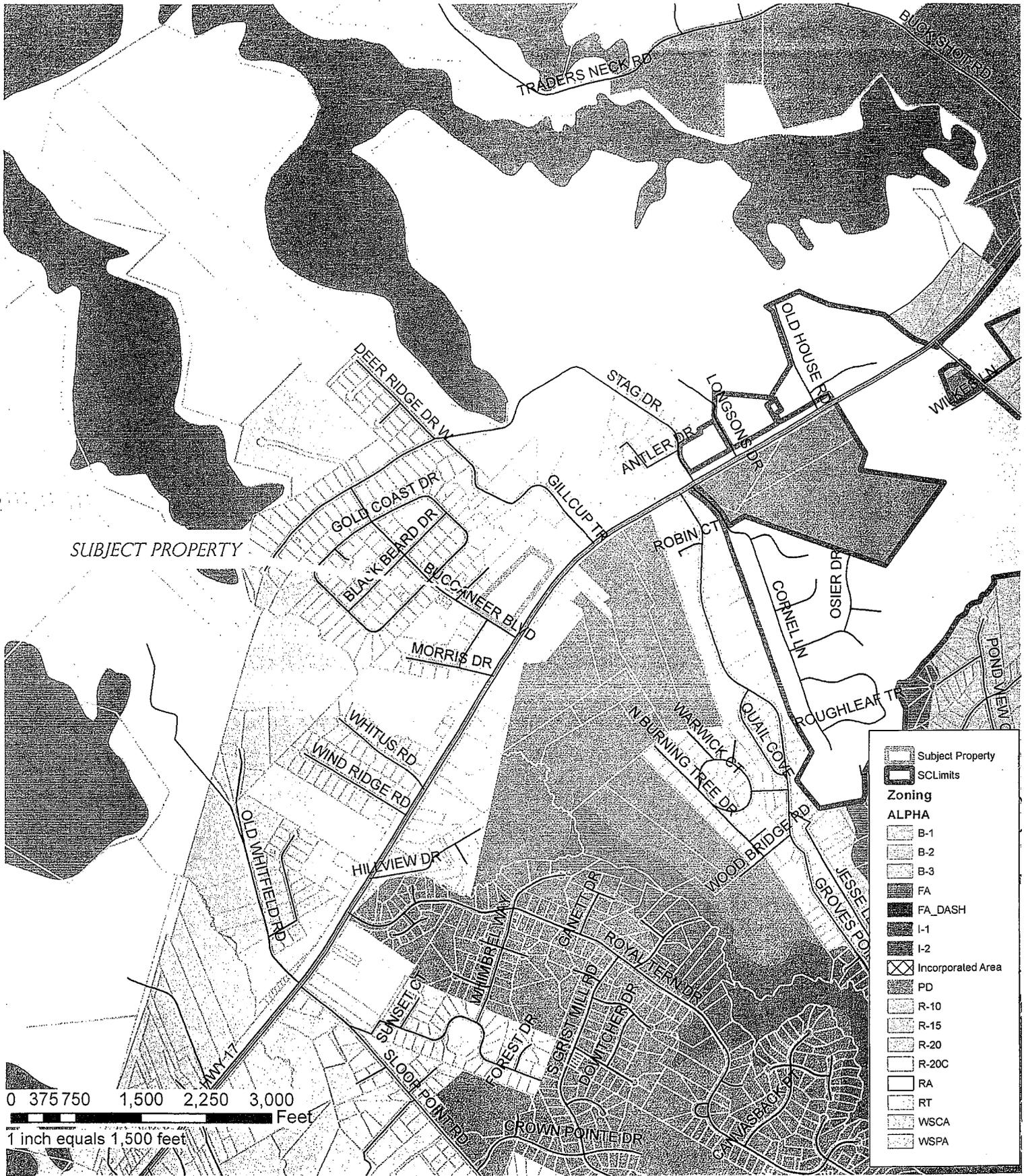
Thomas H. Johnson, Jr.  
Enclosures

cc: Jacquelyn Miley Kelly

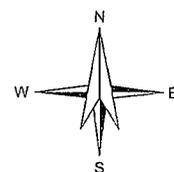


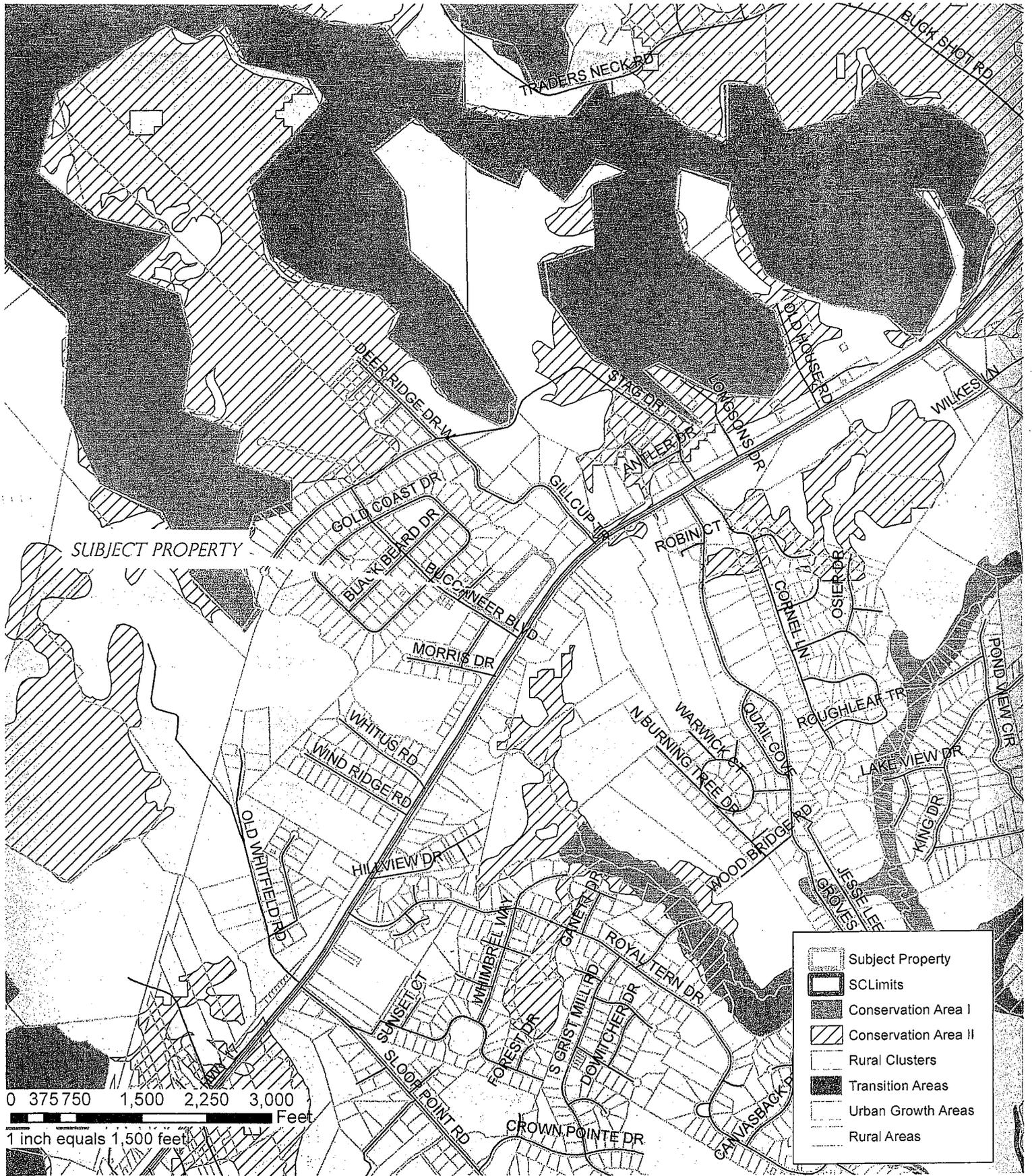
**ZONING MAP AMENDMENT  
US 17 & BUCCANEER BLVD.  
VICINITY MAP**





**ZONING MAP AMENDMENT  
US 17 & BUCCANEER BLVD.  
ZONING MAP**





**ZONING MAP AMENDMENT  
US 17 & BUCCANEER BLVD.  
2005 CAMA LAND USE MAP**

