



## REQUEST FOR BOARD ACTION

ITEM NO. 15

**DATE OF MEETING:** November 15, 2010

**REQUESTED BY:** Benjamin Andrea, Planner II, Planning & Community Development

**SHORT TITLE:** Resolution to Approve a Special Use Permit (SUP) for the Operation of a Produce Market.

**BACKGROUND:** Tim Long and Trudy Griffin, applicants, on behalf of Sandra Mock, owner, is requesting approval of a Special Use Permit (SUP) for the operation of a Produce Market (NAICS Industry Code 445230). The subject property is located at 389 NC Highway 210, near the intersection of NC Highway 210 and Electric Lane near Surf City, NC. The property may be identified as Pender County PIN 4225-18-5184-0000. The property is currently zoned RP, Residential Performance, and uses in the NAICS Sector 445 are permitted via SUP in the RP zoning district.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider the approval of a Special Use Permit for a Produce Market.

**PLANNING STAFF REPORT**  
**Special Use Permit**

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**SUMMARY:**

**Hearing Date:** November 15, 2010  
**Applicants:** Tim Long and Trudy Griffin  
**Property Owner:** Wesley E. Mock III  
**Case Number:** SUP 10-11-15-09 Long

**Land Use Proposed:** The applicants are requesting the approval of a Special Use Permit (SUP) for the operation of a Produce Market (NAICS Sector 445 – Food and Beverage Stores).

**Property Record Number and Location:** The subject property is located at 389 NC Highway 210, near Surf City, NC. The property may be identified as Pender County PIN 4225-18-5184-0000.

**Zoning District of Property:** The property is currently zoned RP, Residential Performance, and uses in the NAICS Sector 445 are permitted via SUP in the RP zoning district.

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**PROJECT DESCRIPTION:**

The applicants, Tim Long and Trudy Griffin, are requesting the approval of a Special Use Permit (SUP) for the operation of a produce market for seasonal sales of produce. This proposal would be an additional use on the subject parcel, which currently hosts an existing flea market in an enclosed building. The applicant is proposing the produce market to consist of an approximate 300 square feet area under three 10' x 10' tents. Display of merchandise is proposed on portable tables under the tents.

Ingress and egress for the facility will be via an existing drive to NC Highway 210. Prior to final zoning approval, a driveway permit will be required from NC DOT for the proposed additional use in addition to any driveway improvements required by the permit. On-site vehicle parking is proposed for within the existing business's parking area.

The applicant's proposed hours of operation will be from 11am until 7pm Tuesdays through Sundays, and closed on Mondays. The applicant has indicated the business will operate annual from March 1<sup>st</sup> until January 1<sup>st</sup>.

The applicant is proposing an on-site portable restroom for public use.

The subject property does contain any Special Flood Hazard Areas or any Areas of Environmental Concern.

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**TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:**

**Cape Fear Council of Governments RPO**

*Applicant will need a driveway permit from NC DOT.*

**Four County Electric Company**

*No response.*

**NC DENR Division of Coastal Management**

*No comments/problems with proposal.*

**NC DENR Division of Forestry**

*No response.*

**NC DENR Division of Land Resources**

*No response.*

**NC DENR Division of Waste Management**

*No response.*

**NC DENR Division of Water Quality**

*No response.*

**NC DOT Division of Highways**

*Applicant will need driveway permit from NC DOT for change of use.*

**NC DOT Transportation Planning Branch**

*No response.*

**NC Office of State Archaeology**

*No response.*

**NC Wildlife Resources Commission**

*No response.*

**Pender County Building Inspections**

*Mike Harrison with Pender County Planning and Community Development Division of Inspections forwarded information from the North Carolina Building Code that applies to the proposed structure:*

**SECTION 3103**

**TEMPORARY STRUCTURES**

3103.1 General. The provisions of this section shall apply to structures erected for a period of less than 180 days. Tents and other membrane structures erected for a period of less than 180 days shall comply with the International Fire Code. Those erected for a longer period of time shall comply with applicable sections of this code.

3103.1.1 Permit required. Temporary structures that cover an area in excess of 120 square feet (11.16 m<sup>2</sup>), including connecting areas or spaces with a common means of egress or entrance which are used or intended to be used for the gathering together of 10 or more persons, shall not be erected, operated or maintained for any purpose without obtaining a permit from the building official.

3103.2 Construction documents. A permit application and construction documents shall be submitted for each installation of a temporary structure. The construction documents shall include a site plan indicating

the location of the temporary structure and information delineating the means of egress and the occupant load.

3103.3 Location. Temporary structures shall be located in accordance with the requirements of Table 602 based on the fire-resistance rating of the exterior walls for the proposed type of construction.

3103.4 Means of egress. Temporary structures shall conform to the means of egress requirements of Chapter 10 and shall have a maximum exit access travel distance of 100 feet (30480mm).

**Pender County Emergency Management**

*No response.*

**Pender County Environmental Health**

*No response.*

**Pender County Fire Marshall**

*No comments/problems with proposal.*

**Pender County Parks and Recreation**

*No comments/problems with proposal.*

**Pender County Public Library**

*No response.*

**Pender County Public Utilities**

*No comments/problems with proposal.*

**Pender County Schools**

*No comments/problems with proposal.*

**Pender County Sheriff's Department**

*No response.*

**Pender County Soil and Water Conservation District**

*No comments/problems with proposal.*

**Progress Energy Corporation**

*No response.*

**US Army Corps of Engineers**

*No response.*

**Wilmington Metropolitan Planning Organization**

*No response.*

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**EVALUATION:**

- A. *Public Notifications:*** Advertisements for the proposal have been placed in the *Topsail Voice* and *The Pender Post*. Adjacent property owners were notified by first class mail.
- B. *Basis for Granting SUP:*** See attachment A for approval procedures (§3.10.3 of Unified Development Ordinance) and revocation procedures (§3.10.4 of Unified Development Ordinance).
- C. *Unified Development Ordinance Compliance:*** The property is currently zoned RP, Residential Performance, and uses defined under Sector 445 (Food and Beverage Stores) are permitted in the RP zoning district by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses.
- D. *2005 CAMA Land Use Plan Compliance:*** The subject property is currently classified within an Urban Growth area. The proposed development is consistent with this classification, as the CAMA Land Use Plan states that Urban Growth areas have excellent access to the regional transportation system for a mixture of more intensive commercial and industrial or job creating uses.
- E. *2010 Comprehensive Land Use Plan Compliance:*** The subject property is currently classified within a Mixed Use area. The proposed land use is compliant with the Mixed Use land use designation, as the 2010 Comprehensive Land Use Plan calls for areas classified as Mixed Use to contain *a mixture of commercial, office, institutional, and high- to medium-density residential uses, arranged in a walkable, compact, pedestrian and transit friendly manner.*
- F. *Existing Land Use in Area:*** The existing land use in the area is composed of undeveloped parcels, utilities, low-density single family residential, and commercial. The subject parcel hosts an existing retail antique sales business, which is immediately adjacent to the proposed produce stand. Adjacent to the subject parcel on the same side of NC Highway 210 is low-density single family residential. Across the road from the subject parcel is an existing power utilities station, and an intensive commercial development is underway that will include a major grocery store and other retail uses within the shopping center.
- G. *Site Access Conditions:*** The property has direct access to NC Highway 210 via an existing driveway.
- H. *Conditions To Consider In Issuing A Revision of the Special Use Permit For This Project:***
1. Unless approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void, if a final zoning permit has not been issued for the project within 12 months.
  2. A separate permit must be obtained for any proposed signs in accordance with Section 16 of the Pender County Zoning Ordinance.
  3. The project shall comply with all requirements of the Pender County Unified Developed Ordinance.
  4. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.
  5. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit
  6. The project shall be developed and maintained in accord with the conditions contained in this permit.
  7. The hours of operation shall be from 11am to 7pm, Tuesday through Sunday, March 1<sup>st</sup> through January 1<sup>st</sup>, as described herein.
  8. No junk, debris trash or inoperable vehicles, recycled or salvaged materials shall be stored on the site all debris shall be removed from the site prior to issuance of a zoning permit.
  9. Review of this proposal will occur within the regulations prescribed in the Pender County Unified Development Ordinance, Adopted June 21, 2010.
  10. The applicant shall obtain a driveway permit from NC DOT for the change of use as requested per NC DOT.

**RESOLUTION**

**NOW, THEREFORE BE IT RESOLVED** by the Pender County Board of Commissioners that:

the Board hereby (approved, modified, denied) a special use permit for a produce market, as described herein. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS

YEA VOTES: Tate \_\_\_ Blanchard \_\_\_ Brown \_\_\_ Rivenbark \_\_\_ Williams \_\_\_

\_\_\_\_\_  
Jimmy T. Tate, Chairman                      Date

\_\_\_\_\_  
ATTEST    Date

## **Attachment A**

### **3.10.3 Procedures for Reviewing Applications**

- A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
- B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.
- C. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed.
- D. The Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.
- E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.
- F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.
- G. The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit, the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:
  - 1. The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;
  - 2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
  - 3. The proposed use shall not constitute a nuisance or hazard;
  - 4. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
  - 5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
  - 6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;
  - 7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and
  - 8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

### **3.10.4 General Provisions Concerning Special Use Permits**

- B. Revocation - In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Administrator may initiate a notice of violation for the provisions of this ordinance and the conditions of the Special Use Permit not in compliance or the Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified.

# APPLICATION FOR SPECIAL USE PERMIT

THIS SECTION FOR OFFICE USE			
Application No.	SUP 10-11-15-09 Long	Date	NO Sept. 29, 10
Permit Fee	\$ 300.00	Receipt No.	099506
APPLICANT INFORMATION			
Applicant Name <u>Tim Long Tandy Griffin</u>		Owner Name <u>Sandra Mock</u>	
Address: <u>P.O. Box 15327</u> <u>Wilmington NC</u> <u>28408</u>		Address: <u>421 Bud's Rd.</u> <u>Hampstead, NC 28413</u>	
Phone No: <u>910-385-3826 / 910-385-6310</u>		Phone No: <u>910-329-6941 / 910-358-5464</u>	
Legal relationship of applicant to owner: _____			
PROJECT INFORMATION			
Property Identification Number: <u>4225-18-5184-0000</u>		Total property acreage: <u>0.65</u>	
Zoning District: _____		Acreage to be disturbed: <u>0.20</u>	
Project location and address: <u>389 NC Hwy 210 Pender Co.</u>			
Describe activities to be undertaken on project site: <u>Sale of Fresh Produce</u>			
SIGNATURES			
Applicant: <u>Tim Long</u> <u>Sandra Griffin</u>	Date: <u>9-29-10</u> <u>9-29-10</u>	Owner: <u>Sandra Mock</u>	Date: <u>9-29-10</u>
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> <li>1. Applicant must also submit the information described on page two of this form.</li> <li>2. Applicant or agent authorized in writing must attend the public hearing.</li> <li>3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing.</li> <li>4. Applicant may wish to review the required findings for approval of a Special Use Permit (p. 1).</li> <li>5. Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing.</li> </ol>			

## SPECIAL USE PERMIT CHECKLIST

<input type="checkbox"/>	Signed application form	
<input type="checkbox"/>	Application fee	
<input checked="" type="checkbox"/>	Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete--the list maybe compiled from the public PC terminal in the Pender County Tax Office).	
<input type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.	
<input type="checkbox"/>	Project Narrative--Written description of the project ( <u>max of 3 pages</u> ) including the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Location of the project and type of access to project site</li> <li><input type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc.</li> <li><input type="checkbox"/> Description of all construction activities to be undertaken on the site</li> <li><input type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers</li> <li><input type="checkbox"/> List of all state and federal permits that will be required for the project</li> <li><input type="checkbox"/> Describe any potential impacts the project will have on the community or adjacent properties such as traffic, noise, etc. and explain efforts to mitigate these impacts (<u>this item must be addressed by the applicant</u>). The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.</li> </ul>	
<input checked="" type="checkbox"/>	Project Map(s)--Map or maps of the special use project site with boundaries of the project if less than the parcel boundaries. This map or maps shall be drawn to a <u>readable</u> scale. The scale shall be not more than 200' to the inch. The map shall display an accurate bar graph scale, date prepared, north arrow and the author of the map. This map(s) shall show the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Boundaries of the property upon which the special use will be located, the acreage in the property and project site, with a north arrow and bar graph.</li> <li><input checked="" type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road.</li> <li><input checked="" type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property.</li> <li><input checked="" type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries.</li> <li><input checked="" type="checkbox"/> Existing and proposed structures, other on-site improvements, and location of all activities associated with the use, location of well, septic tank, and/or other utilities.</li> <li><input type="checkbox"/> Boundary of all clearing, grading, and/or land disturbing activities on the site and the calculated acreage of all land disturbing activities on the site.</li> <li><input checked="" type="checkbox"/> Parking, loading areas, and access to the project (See Article 6, Pender County UDO)</li> <li><input checked="" type="checkbox"/> Landscaping and buffering (See Article 7, Pender County UDO)</li> <li><input checked="" type="checkbox"/> All signs to be located on the property (See Article 9, Pender County UDO)</li> <li><input type="checkbox"/> Pedestrian walks, area lighting and flood lighting.</li> <li><input type="checkbox"/> Existing natural features of the site including, wooded areas, tree lines, ponds, streams, other water bodies or ditches on or adjacent to the site, designated flood hazard areas &amp; known or designated wetlands on the site.</li> <li><input type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site.</li> <li><input type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted.</li> <li><input type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.</li> </ul>	
7. Applications including more than one acre of disturbed area should consult for additional requirements.		
8.	Application received by <u>Ashley D. Frank</u>	Date <u>9.29.2010</u>
9.	Application completeness approved by <u>Ashley D. Frank</u>	Date <u>9.29.2010</u>
10.	Date scheduled for public hearing <u>Nov. 15, 2010</u>	

**RETURN COMPLETED APPLICATION TO:**

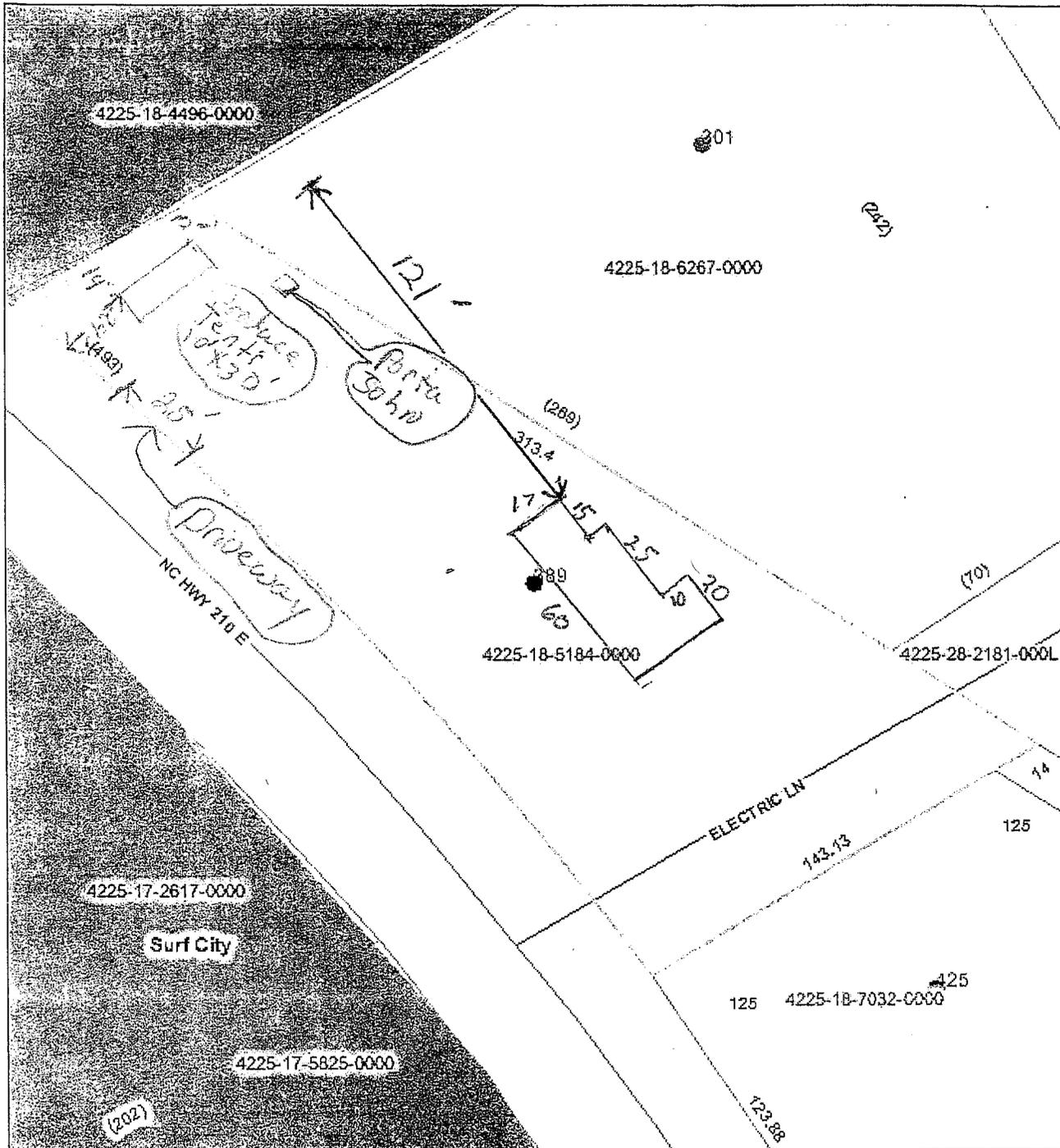
Pender County  
 Planning & Community Development  
 P.O. Box 1519  
 Burgaw, NC 28425

9/29/10

An open-air produce stand located at 389  
NC 210 Surf City, N.C., Pender County. Seasonal  
sales of produce March 1<sup>st</sup> through January 1<sup>st</sup>  
Hours of operation are 11:00 a.m. to 7:00 p.m.  
Tuesday through Sunday, closed Mondays.

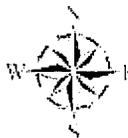
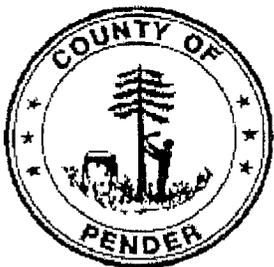
Construction consists of three 10'x10' tents  
with portable tables for display and shelter  
for produce. A rented porta potty is available  
on site. Water is available for sanitation. Hand  
sanitizer is also used for cleanliness.

We are on a location that allows safe entrance,  
exits, and parking. Noise level is minimal. We  
provide fresh produce direct from the various  
farmers of North Carolina and sometimes from  
other states as well. We go the extra mile to  
ensure quality produce to the community & tourists.



1:50 feet

# Pender County GIS



This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for the verification of the information contained on this map. Pender County assumes no legal responsibility for the information contained on this map.



**Applicant:**  
Tim Long and  
Trudy Griffin

**Owner:**  
Wesley E. Mock III

**Special Use Permit**  
10-11-15-09 Long

**Produce Market**



**Vicinity Map**





**Applicant:**  
Tim Long and  
Trudy Griffin

**Owner:**  
Wesley E. Mock III

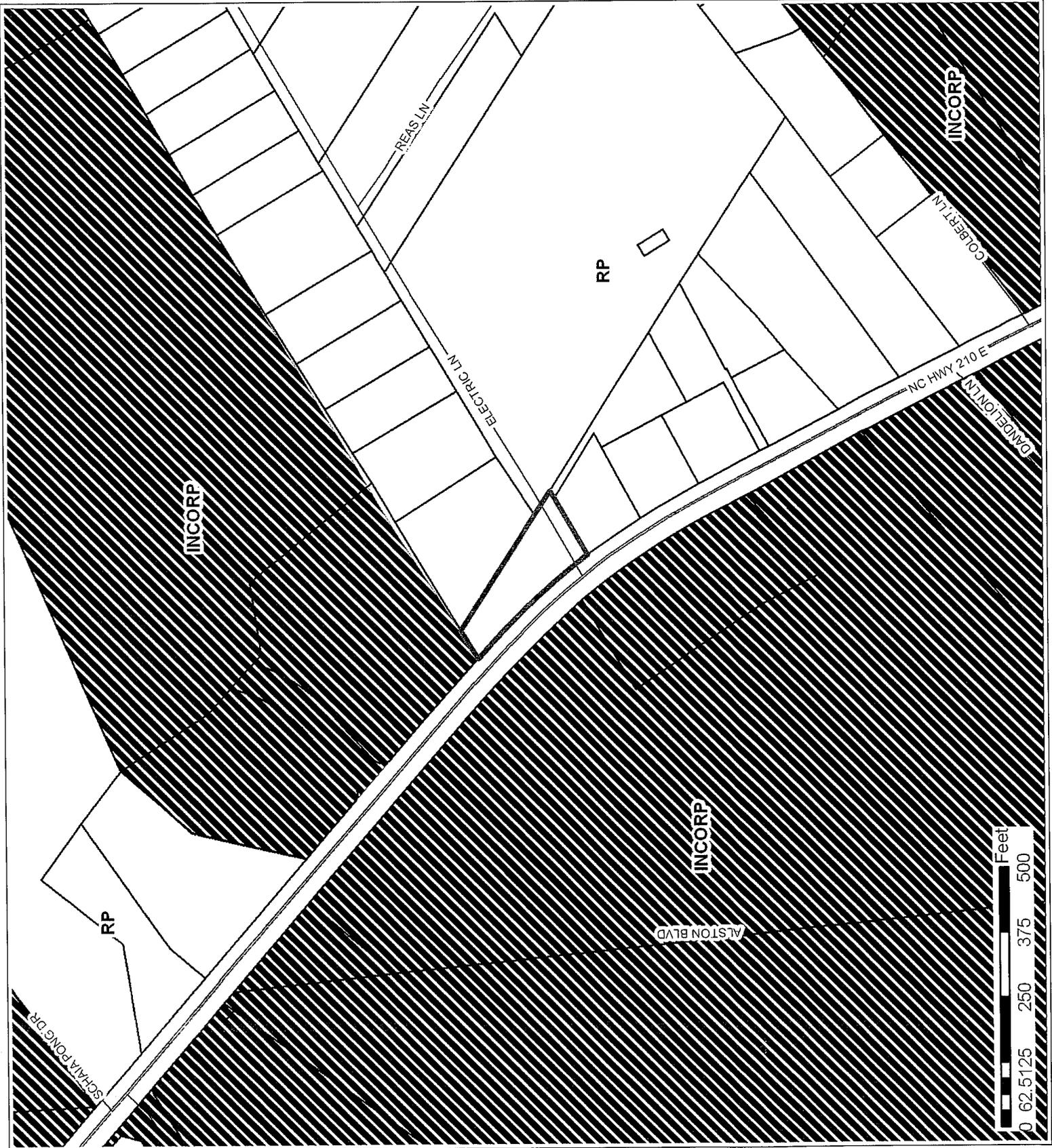
**Special Use Permit**  
10-11-15-09 Long

**Produce Market**

- Subject Parcel**
- Zoning Classification**
- 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 (INCORP)
  - Manufactured Home Park (MH)
  - Residential Mixed (MF)



**Zoning**





**Applicant:**  
Tim Long and  
Trudy Griffin

**Owner:**  
Wesley E. Mock III

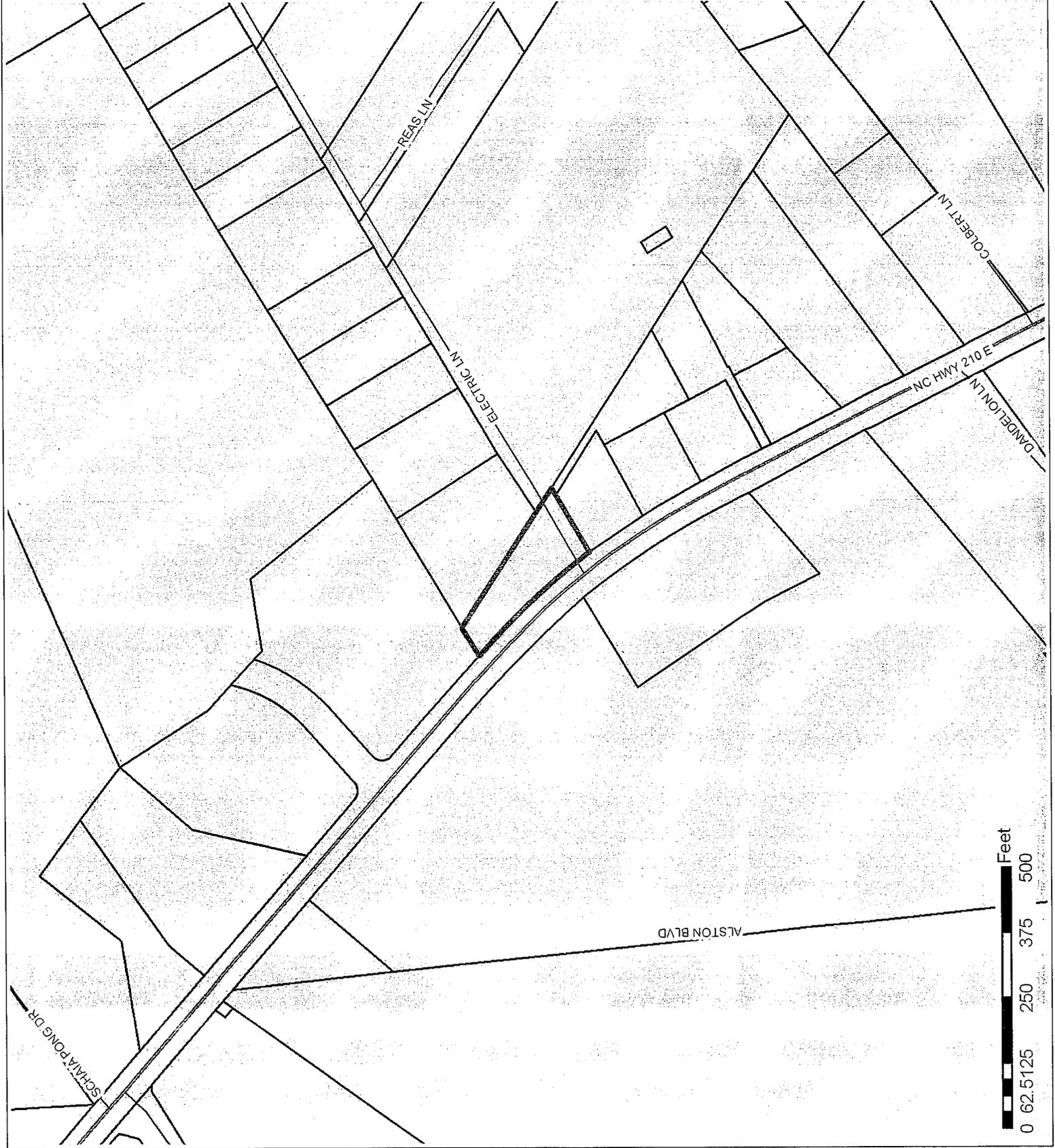
**Special Use Permit**  
10-11-15-09 Long

**Produce Market**

-  Subject Parcel
-  Conservation Area I
-  Conservation Area II
-  Transition Areas
-  Urban Growth Areas
-  Rural Clusters
-  Rural Areas



**CAMA Land Use**





**Applicant:**  
Tim Long and  
Trudy Griffin

**Owner:**  
Wesley E. Mock III

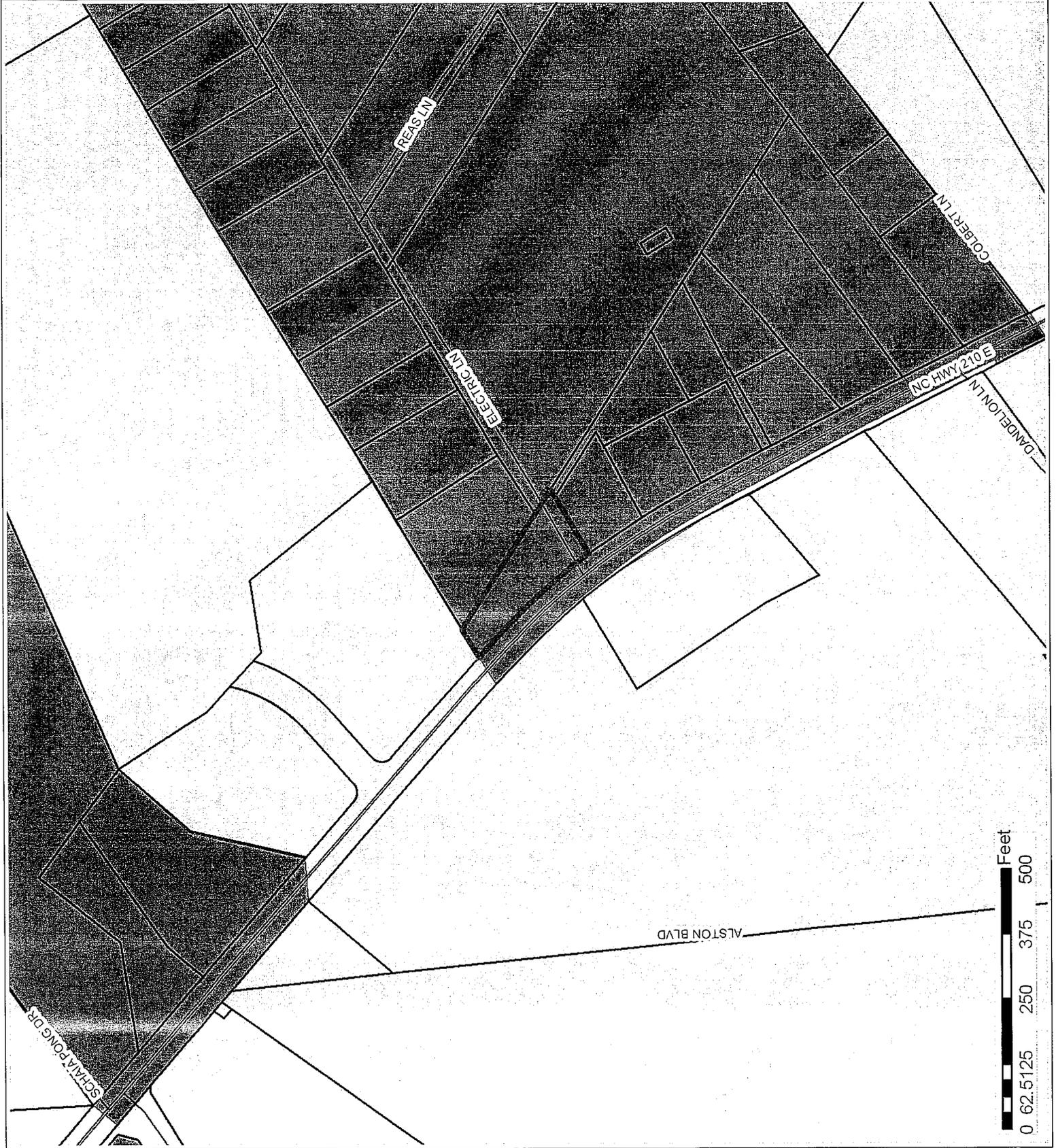
**Special Use Permit**  
10-11-15-09 Long

**Produce Market**

- Subject Parcel
- Municipal Boundaries
- Municipal ETJ
- 2010 CLUP Classifications
- Conservation
- Industrial
- Mixed Use
- Rural Growth
- Suburban Growth



2010 LUP





**Applicant:**  
Tim Long and  
Trudy Griffin

**Owner:**  
Wesley E. Mock III  
**Special Use Permit**  
10-11-15-09 Long  
**Produce Market**

 Subject Parcel



2008 Aerial

