



REQUEST FOR BOARD ACTION

ITEM NO. 20.

DATE OF MEETING: April 16, 2012

REQUESTED BY: Ashley Frank, Planner II, Planning & Community Development Department

SHORT TITLE: Request a Zoning Map Amendment for a General Use Rezoning for One (1) Tract from RP, Residential District to RA, Rural Agricultural District.

BACKGROUND: John Silvia, applicant and owner, is requesting approval of a Zoning Map Amendment for a general use rezoning of one (1) tract totaling 2.37 acres from RP, Residential Performance District, to RA, Rural Agricultural District. The property is located at on the south side of Ashton Road just to the east of Little Kelly Road in Rocky Point and may be identified as Pender County PIN 3216-56-5573-0000.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider a request for a Zoning Map Amendment for a general use rezoning of one (1) tract totaling 2.37 acres from RP, Residential Performance District, to RA, Rural Agricultural District.

RESOLUTION NOW, THEREFORE, BE IT RESOLVED, that on April 16, 2012 the Pender County Board of Commissioners (approved, modified, denied) a rezoning request for property as described herein. The Chairman and County Manager is authorized to execute any documentation necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS _____

YEA VOTES: Brown _____ Tate _____ Rivenbark _____ Ward _____ Williams _____

George R. Brown, Chairman

04/16/2012
Date

ATTEST

04/16/2012
DATE

PLANNING STAFF REPORT
Zoning Map Amendment

SUMMARY:

Hearing Date: March 6, 2012- Planning Board
April 16, 2012- Board of Commissioners

Case Number: 10676- Silvia (ZMA)

Applicant: John Silvia

Property Owner: Same

Rezoning Proposal: John Silvia, applicant and owner, is requesting approval of a Zoning Map Amendment for a general use rezoning of one (1) tract totaling 2.37 acres from RP, Residential Performance District, to RA, Rural Agricultural District.

Property Record Numbers, Acreage, and Location: The property is located on the south side of Ashton Road just to the east of Little Kelly Road in Rocky Point and may be identified as Pender County PIN 3216-56-5573-0000.

Planning Board Recommendation: On March 6, 2012, the Pender County Planning Board voted unanimously in favor of passing a motion to recommend APPROVAL of the aforementioned rezoning request.

Staff Recommendation: The request complies with the criteria set forth in Article 3.3.8 of the Unified Development Ordinance. The request is consistent with the 2005 CAMA Land Use Plan and is not in conflict with 2010 Comprehensive Land Use Plan. The Pender County Planning Board is recommending approval of this request. Therefore, staff respectfully recommends that the request be approved.

DESCRIPTION:

John Silvia, applicant and owner, is requesting approval of a Zoning Map Amendment for a general use rezoning of one (1) tract totaling 2.37 acres from RP, Residential Performance District, to RA, Rural Agricultural District.

The property is located on the south side of Ashton Road, east of Little Kelly Road in Rocky Point and may be identified as Pender County PIN 3216-56-5573-0000. There is currently a convenience food store with a grill restaurant located in an existing building on the subject property.

The property has direct access to Ashton Road; any future development may require NC DOT Driveway permit or a change of use permit.

This is a general use rezoning which will encompass all uses permitted-by-right in the Rural Agricultural District, as shown on the Permitted Use Table 5.2.3 of the Pender County Unified

Development Ordinance. The Rural Agricultural District is intended to accommodate non-residential agricultural uses and very low density residential development (minimum of 1 du/ac), as well as limited non-residential uses, in rural areas adjacent to agricultural operations.

EVALUATION:

- A) Public Notifications:** Public Notice of the proposal for map change has been advertised in the Pender Post and Topsail 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 in Area:** All the adjoining and adjacent properties are zoned RP, Residential Performance District.
- C) Existing Land Use in Area:** The existing land use in the area includes low density residential and vacant tracts to the north. Along the eastern and southern boundary is an existing travel trailer park and to the west is low density residential
- D) 2005 CAMA Land Use Plan Compliance:** The 2005 CAMA Land Use Plan classifies the subject property as Transitional Area. The Transitional Area land classification provides for areas of more intensive community development where the county is making plans to develop public services, particularly water and sewer services, and where access to transportation is excellent. Development will include residential uses, commercial and office uses, and employment uses, such as manufacturing and distribution that can take advantage of the services and transportation access available. This area is planned for *moderate net density* for residential development. This density is dependent upon the types and levels of services that are available.
- E) 2010 Comprehensive Land Use Plan Compliance:** This property is located in the Rocky Point Study Area and the 2010 Comprehensive Land Use Plan classifies the subject property as Mixed Use, which is a land use classification designating locations where a mixture of higher density/intensity uses are to be encouraged. The following goals and policies within this plan support the rezoning request:
 - a) Small Area (Rocky Point) Goal 4B.1:** *The primary goal of the Rocky Point Small Area Plan is to accommodate higher density mixed use growth in and around the I-40 / US 117 and NC 210 intersections. Coordinating future growth with already planned projects within the area will be of prime importance. Large scale developments should expect to be supported by public utilities and closely evaluated through coordinated development plan review. Commercial, office and mixed used infill is expected to occur along the major highway corridors, particularly close to major intersections.*
 - b) Small Area (Rocky Point) Policy 4B.1.2:** *Focus higher density residential and other mixed use development toward existing County facilities such as Heidi Trask High School and other developing areas being served by public water and sewer.*
 - c) Small Area (Rocky Point) Policy 4B.1.4:** *New development within the small area should be compatible with existing residential uses.*

- d) **Growth Management Policy 1A.1.2:** Encourage development in areas where the necessary infrastructure – roads, water, sewer, and schools - are available, planned or can be most cost effectively provided and extended to serve existing and future development.
- e) **Growth Management Policy 1A.1.4:** The County should develop and utilize innovative and flexible land planning techniques that encourage developments to efficiently use land resources that result in more compact urban areas, infill development, redevelopment, and the adaptive re-use of existing buildings.
- f) **Growth Management Policy 1A.1.5:** The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.

F) Unified Development Ordinance Compliance: Article 3.3.8 of the Unified Development Ordinance provides for standards that shall be followed by the Planning Board before a favorable recommendation of approval for rezoning can be made. The proposed rezoning meets the standards of Article 3.3.8 of the Unified Development Ordinance.

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.*

G) Summary & Staff Recommendation: This proposal consists of a Zoning Map Amendment for a general use rezoning of one (1) tract totaling 2.37 acres from RP, Residential Performance District, to RA, Rural Agricultural District. The request complies with the criteria set forth in Article 3.3.8 of the Unified Development Ordinance. The request is consistent with the 2005 CAMA Land Use Plan and the 2010 Comprehensive Land Use Plan. The Pender County Planning Board is recommending approval of this request. Therefore, staff respectfully recommends that the request be approved.

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO

It appears, based on the info, that all that would be required from DOT would be a driveway permit.

Four County Electric Company

No response.

NC DENR Division of Coastal Management

No comment.

NC DENR Division of Forestry

No response.

NC DENR Division of Land Resources

This will need an erosion and sedimentation control plan if over an acre is disturbed.

NC DENR Division of Waste Management

No response.

NC DENR Division of Water Quality

No response.

NC DOT Division of Highways

No response.

NC DOT Transportation Planning Branch

We have no comments on this one.

NC Office of State Archaeology

No response.

NC Wildlife Resources Commission

No response.

Pender County Building Inspections

No response.

Pender County Emergency Management

No response.

Pender County Environmental Health

No response.

Pender County Fire Marshal

We do NOT have problems with this request.

Pender County Parks and Recreation

No issues with this request.

Pender County Public Library

No response.

Pender County Public Utilities

No response.

Pender County Schools

This should not have any impact on Pender County Schools.

Pender County Sheriff's Department

No response.

Pender County Soil and Water Conservation District

Soil & Water sees no problem with this request.

Progress Energy Corporation

No response.

US Army Corps of Engineers

No response.

Wilmington Metropolitan Planning Organization

No response.

APPLICATION FOR REZONING (Zoning Map Amendment)

THIS SECTION FOR OFFICE USE			
Application No.	ZMA 10676	Date	1.20.2012
Application Fee	\$ 500.00	Receipt No.	116710
Pre-Application Conference	n/a	Hearing Date	PB 3.6.2012 / Bocc April 16 2012
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	John M. Silva	Owner's Name:	- SAME -
Applicant's Address:	14497 Ashton Rd.	Owner's Address:	- SAME -
City, State, & Zip	Rocky Point	City, State, & Zip	- SAME -
Phone Number:	910 259 9611	Phone Number:	- SAME -
Legal relationship of applicant to land owner:	same person		520.2424
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3216-56-5573	Total property acreage:	2.37
Current Zoning District:	RP	Proposed Zoning District:	GB
Project Address :	14582 Ashton Rd Rocky Point NC		
Description of Project Location:	2.3 acres at the end of Ashton Rd. close to Little Keely Rd.		
SECTION 3: SIGNATURES			
Applicant's Signature	John M Silva	Date:	1-17-12
Owner's Signature	John M Silva	Date:	1-17-12
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 1. Applicant must also submit the information described on the Rezoning Checklist. 2. Applicant or agent authorized in writing must attend the public hearing. 3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Planning Board or other authorized person agrees to table or delay the hearing. 4. All fees are non-refundable 5. A complete application packet must be submitted prior to the deadline in order to be placed on the next Planning Board Agenda 			

Rezoning/Zoning Map Amendment Checklist

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Signed application form							
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Application fee							
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A list of names and addresses, as obtained from the county tax listings and tax abstract, all adjacent property owners, including property owners directly across any road or road easement, and owners of the property under consideration for rezoning.							
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Two (2) business size envelopes legibly addressed with first class postage for each of the adjacent and abutting property owners on the above list.							
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accurate legal description or a map drawn to scale showing the property boundaries to be rezoned, in sufficient detail to for the rezoning to be located on the Official Zoning Map. <i>deed</i>							
<i>n/a</i>	<input type="checkbox"/>	18 (11"x17") map copies to be distributed to the Planning Board				<i>8.5 x 11</i>			
<i>n/a</i>	<input checked="" type="checkbox"/>	20 (11"x17") map copies to be distributed to the Board of Commissioners				<i>8.5 x 11</i>			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Digital (.pdf) submission of all application materials				<i>Scanned by staff</i>			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A description and/or statement of the present and proposed zoning regulation or district boundary and stating why the request is being made and any information that is pertinent to the case. If the owner and applicant are different, the letter must be signed by both parties.							
Office Use Only									
<input checked="" type="checkbox"/>	ZMA Fees: (\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter)				Total Fee Calculation: \$		<i>500.00</i>		
Attachments Included with Application: (Please include # of copies)									
CD /other digital version	<input type="checkbox"/> Y <input type="checkbox"/> N	<i>n/a</i>	Plan Sets	# of large	<i>n/a</i>	# of 11X17	<input checked="" type="checkbox"/>	Other documents/Reports	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N
Payment Method:		Cash : <input type="checkbox"/> \$ _____			Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		Check: <input checked="" type="checkbox"/> Check # <i>2441</i>		
Application received by: <i>Rohley D. Frank</i>							Date: <i>1.17.12</i>		
Application completeness approved by: <i>Rohley D. Frank</i>							Date: <i>1.17.12</i>		
Dates scheduled for public hearing:									
<input checked="" type="checkbox"/> Planning Board:		<i>March 6, 2012</i>							
<input checked="" type="checkbox"/> Board of Commissioners:		<i>April 16, 2012</i>							

RETURN COMPLETED APPLICATION TO:
Pender County Planning & Community Development
805 South Walker Street
P.O. Box 1519
Burgaw, NC 28425

Print Form

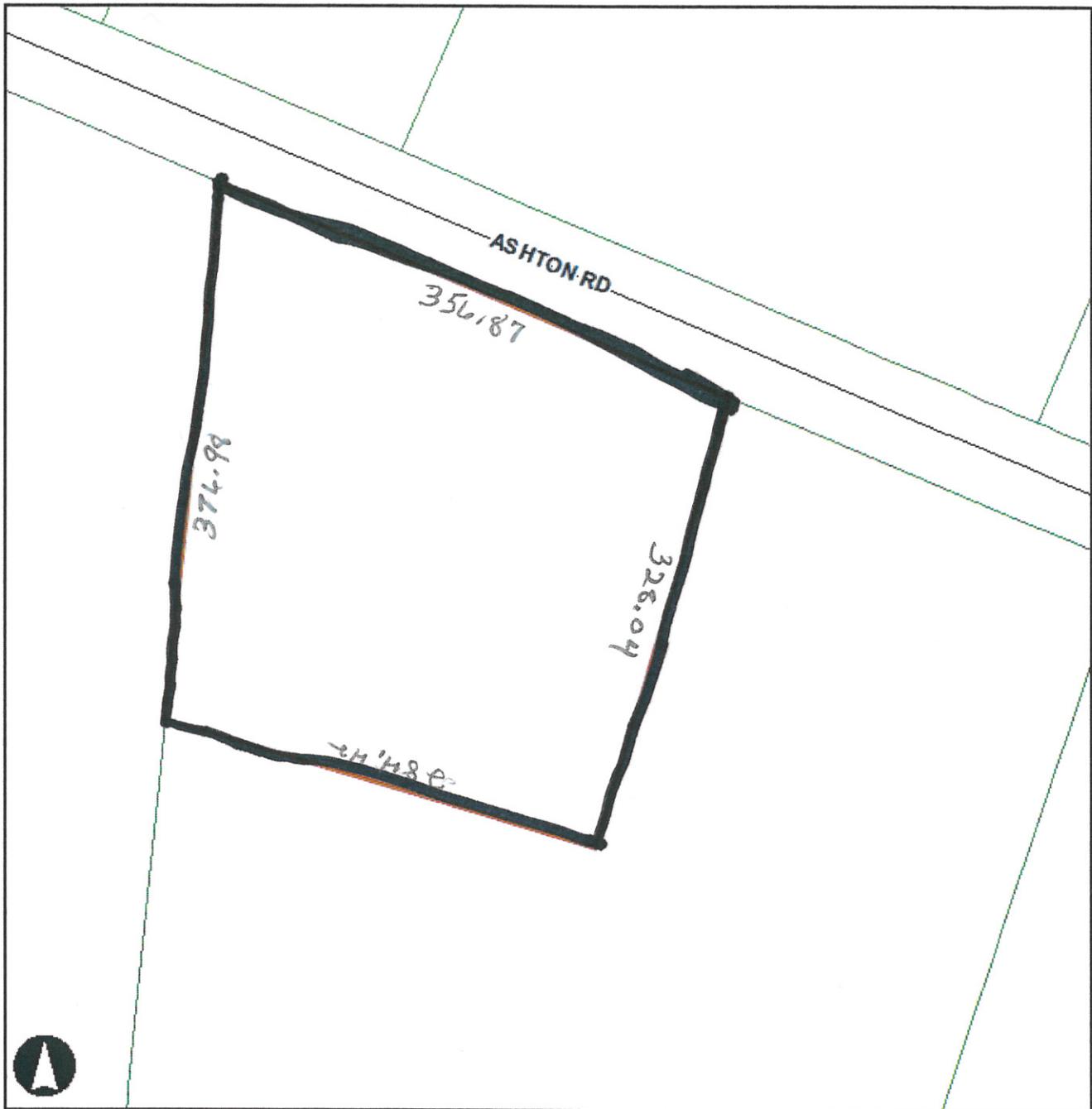
Jan. 19,2012

John Silvia

14497 Ashton Rd.

Rocky Point, NC 28457

My name is John Silvia from Rocky Point Campground And Fishing Ponds. I have been doing business in this county for almost 30 years. It as always been my goal to bring new people into Pender County.The more people in the county the more cash is spent in the county. Over the years i have tried to do just that with Rocky Point County Cafe, Shooters World Pistol Range, Fishing Ponds, Campground And Swimming Pool.There is a new construction in the county, building a new power plant to replace the Sutton plant onRt.421. That will take 3 years to build, We have tried to keep as many as possible of the out of town works to stay in pender county. And for that reason I am desperately in need of 9 or 10 - 50 amp camp sites. In order to do that i'm told that i will have to rezone and i'm willing to do what it takes to do that. I thank you very much for your time.
John M. Silvia.



Scale: 1:100



ALPHA: 3216-56-5573-0000
 NAME: SILVA JOHN
 ADDR: 14497 ASHTON RD
 CITY: ROCKY POINT
 STATE: NC
 ZIP: 28457
 PROPERTY ADDRESS: 14581 ASHTON RD
 PROPERTY DESCRIPTION: 2.37 AC S/S SR 1411
 RESTAURANT E/S SR 1409
 DATE: 11/14/2011

DEED: 3989/289
 PLAT: NOPLAT
 TOWNSHIP: 104
 TNSH DESC: LONG CREEK
 ACRES: 2.37
 LAND VALUE: \$35,880.00
 BUILDING VALUE: \$151,889.00
 TOTAL VALUE: \$187,769.00
 DEFERRED VALUE: \$0.00
 SUBDIVISION: Null
 TAX CODES: G01 F24 R40 S63



Faye Teachey Prevatte Register of Deeds
11-14-2011 11:17:06.000 Pender County, NC
NC REVENUE STAMP: \$130.00 (#32709)

3216-56-5573-0000

11/14/11 \$

NORTH CAROLINA SPECIAL WARRANTY DEED

Excise Tax: \$130.00

Tax Lot No. _____ Parcel Identifier No. 3216-56-5573-0000
Verified by _____ County on the _____ day of _____ 20____
by _____

Delinquent taxes, if any, to be paid by the closing attorney to the County Tax Collector upon disbursement of closing proceeds.

Mail after recording to: Grantee

This instrument was prepared by: McGuireWoods LLP, PLLC (SSL), 300 North Third Street, Suite 400,
Wilmington, North Carolina 28401

Brief Description for the Index

2.342 acres SR 1411

THIS DEED made this 8th day of November, 2011, by and between

GRANTOR

BRANCH BANKING AND TRUST COMPANY
a North Carolina banking corporation
200 W. 2nd Street
Winston-Salem, North Carolina 27101

GRANTEE

JOHN SILVIA
d/b/a ROCKY POINT CAMPGROUND
14497 Ashton Road
Rocky Point, North Carolina 28457

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Pender County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

A. Sekina



The property hereinabove described was acquired by Grantor by instrument recorded in **Book 3929, Page 0125.**

All or a portion of the property herein conveyed does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

AND the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the property hereinabove described is expressly subject to the following exceptions:

Any accruing real property taxes and any conditions, restrictions, covenants, or easements of record affecting the property hereinabove described, including any which may be shown on a recent survey or recorded plat or which may be revealed by an inspection of the property hereinabove described.

The property hereinabove described is conveyed on an "AS IS, WHERE IS" condition and basis, and Grantor has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as to, concerning or with respect to: (a) the value, nature, quality or condition of the property hereinabove described, (b) the suitability of the property hereinabove described for any activities and uses, (c) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the property hereinabove described, or (d) any other matter with respect to the Property except as to warranties of title as set forth herein.

[SIGNATURE AND ACKNOWLEDGEMENT TO APPEAR ON FOLLOWING PAGE]



IN WITNESS WHEREOF, the Grantor has caused this instrument to be signed in its company name by its duly authorized officer, the day and year first above written.

BRANCH BANKING AND TRUST COMPANY,
a North Carolina banking corporation

By: Michael Sherk
Name: Michael Sherk
Title: Senior Vice President

SOUTH

SEAL-STAMP NORTH CAROLINA, HORRY COUNTY



I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: MICHAEL SHERK (Print name of individual executing document).

Date: November 8, 2011

Jackie H. McKeSSick
Notary Public
Print Name: Jackie H. McKeSSick

My commission expires: 8-2-2020

The foregoing Certificate(s) of _____

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

REGISTER OF DEEDS FOR _____ COUNTY
By: _____ Deputy/Assistant - Register of Deeds



Exhibit A

BEGINNING at a nail, in the centerline of Secondary Road Number 1411, located South 63 degrees 03 minutes 00 seconds East 438.58 feet from a nail at the intersection of the centerlines of Secondary Road 1409 and Secondary Road Number 1411, and running thence:

1. South 63 degrees 03 minutes 00 seconds East 363.61 feet along the centerline of Secondary Road Number 1411 (passing over a nail at 56.87 feet) to a nail;
2. South 20 degrees 37 minutes 51 seconds West 327.23 feet (passing over an iron stake at 37.00 feet) to an iron stake;
3. North 69 degrees 56 minutes 54 seconds West 290.12 feet (passing over an iron stake at 218.20 feet) to an iron stake; and
4. North 09 degrees 43 minutes 45 seconds East 376.98 feet (passing over an existing iron pipe at 318.73 feet) to the BEGINNING,

containing 2.342 acres, after the exclusion of that portion of Secondary Road Number 1411 (60 foot right-of-way) within the above, and is as surveyed during February 1998.



Applicant/Owner
John Silvia

Zoning Map
Amendment

General Use Rezoning
RP,
Residential Performance
to the
RA, Rural Agricultural

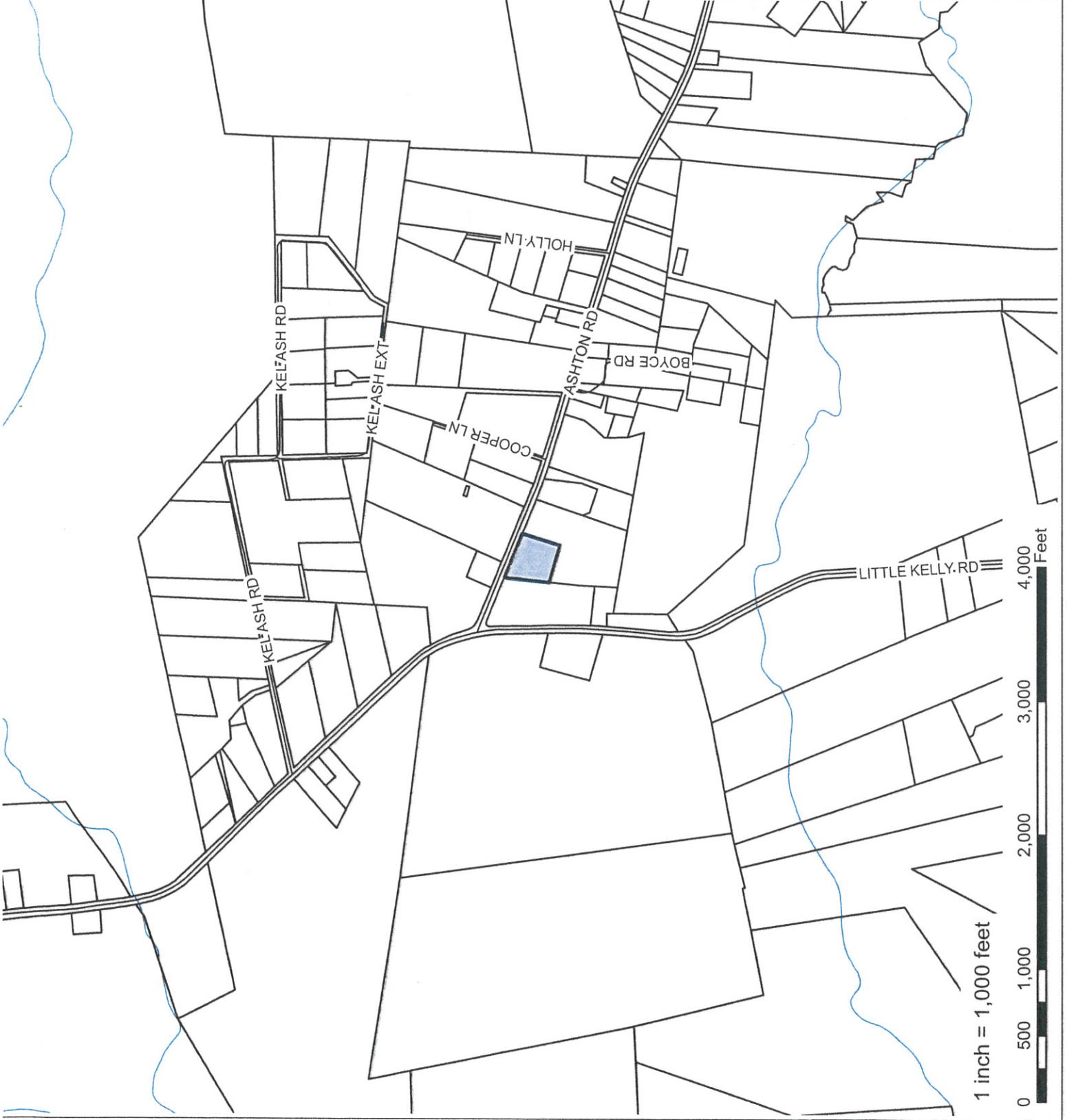
Case # 10676

Legend

 **Subject Property**



VICINITY MAP





Applicant/Owner
John Silvia

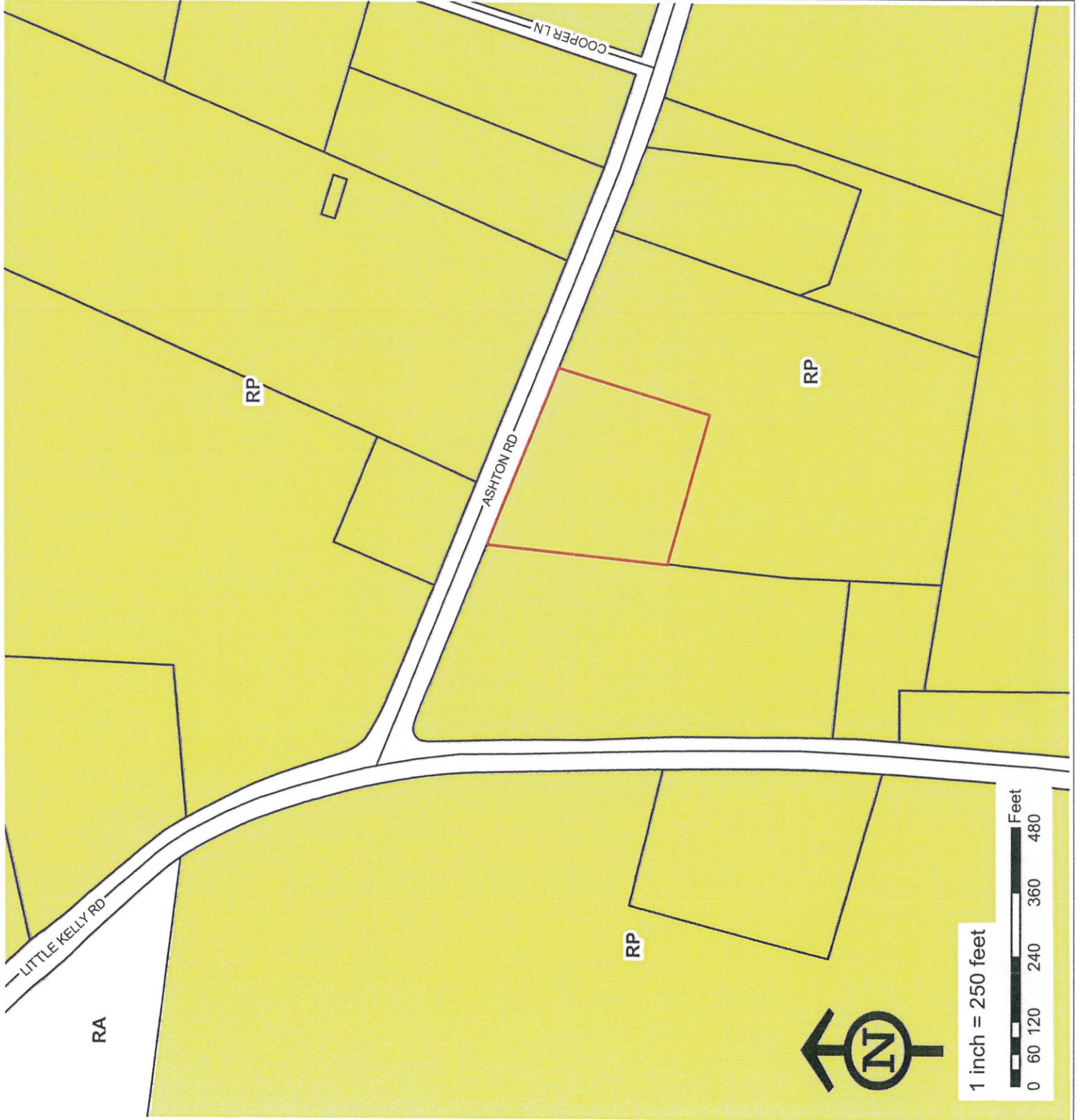
Zoning Map
Amendment

General Use Rezoning
RP,
Residential Performance
to the
RA, Rural Agricultural

Case # 10676

	Subject Property
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 MAP





Applicant/Owner
John Silvia

Zoning Map
Amendment

General Use Rezoning
RP,
Residential Performance
to the
RA, Rural Agricultural

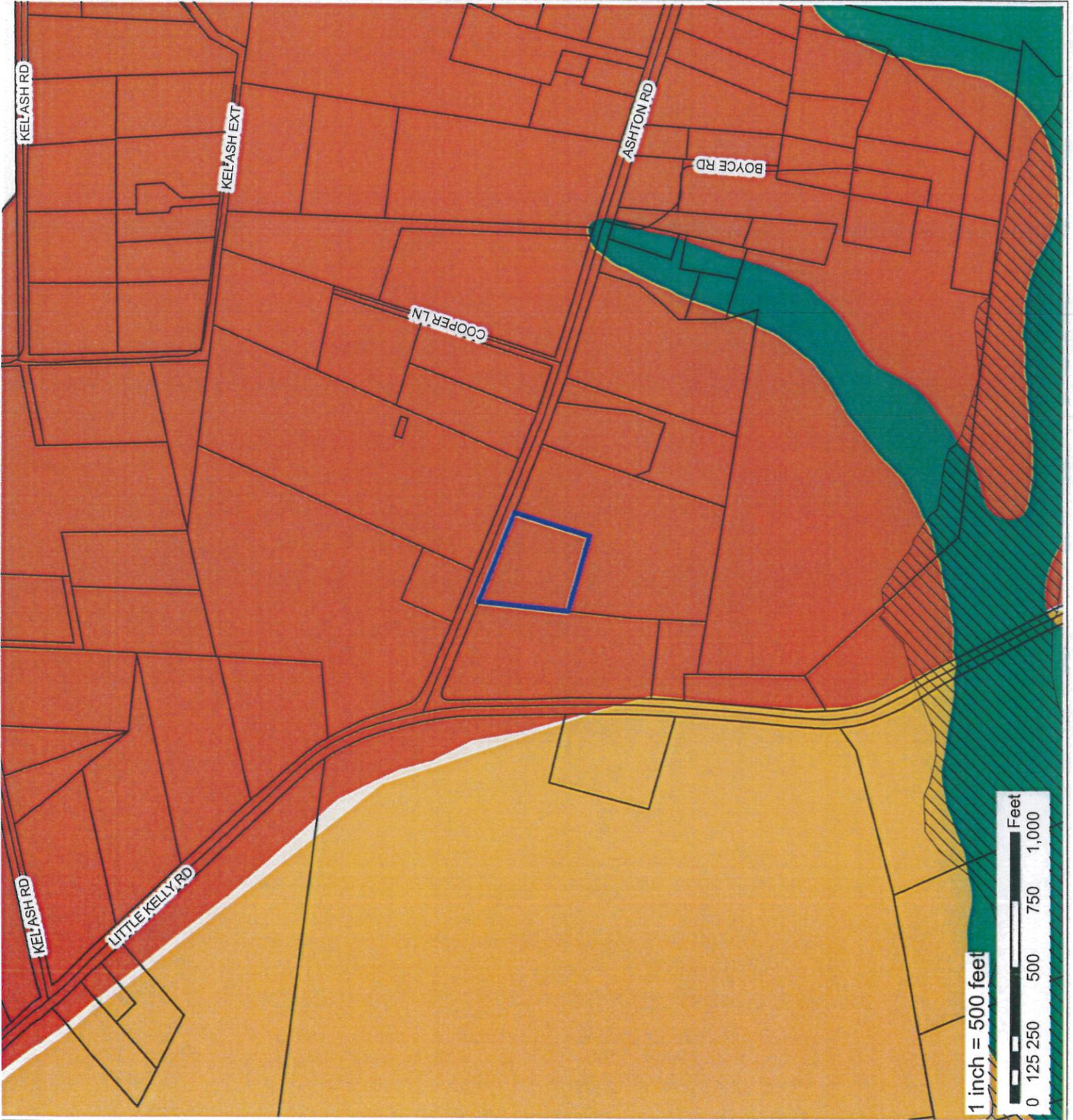
Case # 10676

Legend

- Subject Property
- Future Land Use (CAMA)
- Conservation Area I
- Conservation Area II
- Transition Areas
- Urban Growth Areas
- Rural Clusters
- Rural Areas



CAMA (2005)
LAND USE MAP





Applicant/Owner
John Silvia

Zoning Map
Amendment

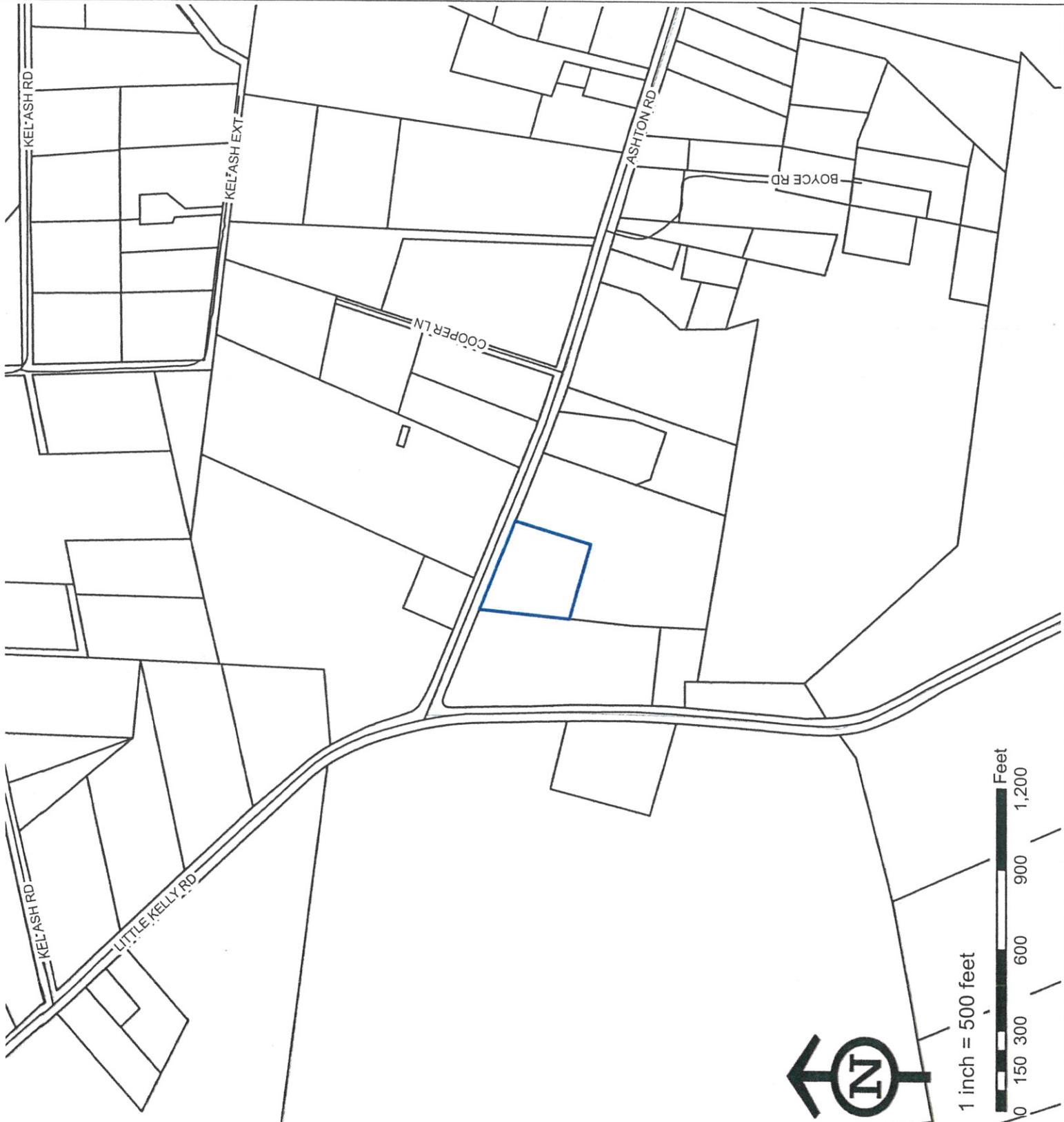
General Use Rezoning
RP,
Residential Performance
to the
RA, Rural Agricultural

Case # 10676

Legend

-  Subject Property
- Future Land Use**
-  Conservation
-  Industrial
-  Mixed Use
-  Rural Growth
-  Suburban Growth

2010
Comprehensive
Future Land Use





Applicant/Owner
John Silvia

Zoning Map
Amendment

General Use Rezoning
RP,
Residential Performance
to the
RA, Rural Agricultural

Case # 10676

Legend

 Subject Property



Aerial Map

