



REQUEST FOR BOARD ACTION

ITEM NO. 5.

DATE OF MEETING: June 23, 2014

REQUESTED BY: Ed F. McCarthy, Planner II, Planning & Community Development

SHORT TITLE: Resolution to Approve a Zoning Map Amendment for a General Use Rezoning.

BACKGROUND: Harold A. Harris, applicant and owner, is requesting approval of a zoning map amendment for a general use rezoning of 0.89 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.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Zoning Map Amendment for a General Use Rezoning.

RESOLUTION

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

the Board hereby (approved, modified, denied) a Zoning Map Amendment for a General Use Rezoning, 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: Williams: _____ McCoy: _____ Brown: _____ Tate: _____ Ward: _____

J. David Williams, Jr., Chairman 06/23/2014
Date

ATTEST 06/23/2014
Date

PLANNING STAFF REPORT
Zoning Map Amendment

SUMMARY:

Hearing Date: May 6, 2014 – Planning Board
June 23, 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.

Planning Board Recommendation: The Pender County Planning Board at the May 15, 2014 meeting voted unanimously in favor of passing a motion to recommend APPROVAL of the aforementioned rezoning request.

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.

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.

DESCRIPTION:

Harold A. Harris, applicant and owner, is requesting approval of a zoning map amendment for a general use rezoning of 0.89 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.

This is a general use rezoning which will encompass all uses permitted-by-right in the RP, Residential Performance District, as shown on the Permitted Use Table 5.2.3 of the Pender County Unified Development Ordinance. 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.

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 a general use rezoning of 0.89 acres from GB, General Business to the RP, Residential Performance zoning district. 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. On May 6, 2014, the Planning Board voted unanimously to approve the general use rezoning. Staff respectfully recommends approval for this general use rezoning.

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.

UDO §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.

Pender County Planning and Community Development

Planning Division

805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

GENERAL USE REZONING

GENERAL

1. An applicant shall be required to schedule a pre-submittal meeting with the Administrator at least thirty (30) days prior to submission of an application.
2. Amendments to the Zoning Map, also called a Rezoning, shall be made in accordance with the provisions of the Pender County UDO and shall follow the review process as shown in Figure 1 at the end of Section 3.4.
3. The County Commissioners shall approve or deny amendments to the Zoning Map of Pender County, as may be required from time to time.
4. 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 the UDO. An illustration containing a metes and bounds description is required.
5. 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.
6. Must show substantial compliance with the goals and policies of the Comprehensive Land Use Plan and other adopted plans.

APPROVAL STANDARDS

1. 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).
2. 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.
3. 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.
4. Whether the proposed amendment is reasonable as it relates to the public interest.

APPLICATION FOR REZONING (Zoning Map Amendment)

THIS SECTION FOR OFFICE USE			
Application No.	ZMA	Date	
Application Fee	\$ 500.00	Receipt No.	
Pre-Application Conference		Hearing Date	5/19/14 6/23/14
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	HAROLD A HARRIS	Owner's Name:	Same as app.
Applicant's Address:	25540 US HWY 175	Owner's Address:	
City, State, & Zip	Holly Ridge NC 28445	City, State, & Zip	
Phone Number:	443 466 4167	Phone Number:	
Legal relationship of applicant to land owner: Same			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	4226-97-2074	Total property acreage:	0.89
Current Zoning District:	GB	Proposed Zoning District:	RP
Project Address :	25540 US Hwy 175 - Surf City, NC 28445		
Description of Project Location:	.89 acres adjacent to the 915 17 at County line		
SECTION 3: SIGNATURES			
Applicant's Signature	Harold A Harris	Date:	3/19/14
Owner's Signature		Date:	
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"/>	Signed application form					
<input type="checkbox"/>	Application fee					
<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 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"/>	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.					
<input type="checkbox"/>	18 (11"x17") map copies to be distributed to the Planning Board					
<input type="checkbox"/>	20 (11"x17") map copies to be distributed to the Board of Commissioners					
<input type="checkbox"/>	Digital (.pdf) submission of all application materials					
<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"/>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">ZMA Fees: (\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter)</td> <td style="width: 50%;">Total Fee Calculation: \$ <u>500.00</u></td> </tr> </table>	ZMA Fees: (\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter)	Total Fee Calculation: \$ <u>500.00</u>			
ZMA Fees: (\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter)	Total Fee Calculation: \$ <u>500.00</u>					
Attachments Included with Application: (Please include # of copies)						
CD /other digital version	<input type="checkbox"/> Y <input type="checkbox"/> N	Plan Sets	# of large	# of 11X17	Other documents/Reports	<input type="checkbox"/> Y <input type="checkbox"/> N
Payment Method:	Cash: <input checked="" type="checkbox"/> \$ <u>500.00</u>	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		Check: <input type="checkbox"/> Check # _____		
Application received by:	<i>E. McElwee</i>				Date: <u>3-21-19</u>	
Application completeness approved by:	<i>E. McElwee</i>				Date: <u>3-21-19</u>	
Dates scheduled for public hearing: <input type="checkbox"/> Planning Board: <input type="checkbox"/> Board of Commissioners:						

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

To Whom It May Concern

PROPERTY IS CURRENTLY ZONED
G-B, REQUEST TO REZONE TO R.P. ~~RD, ZONING~~
REASON FOR REZONING REQUEST IS TO
PUT A MANUFACTURED HOME ON PROPERTY
SO THAT MYSELF AND DAUGHTER CAN
RESIDE AT. CURRENT ZONING DOES NOT
ALLOW MANUFACTURED HOMES, MOST
OF THE PROPERTIES AROUND MINE ARE
ZONED R.P.



Applicant:
Harold A. Harris

Owner:
Harold A. Harris

Zoning Map Amendment
11153

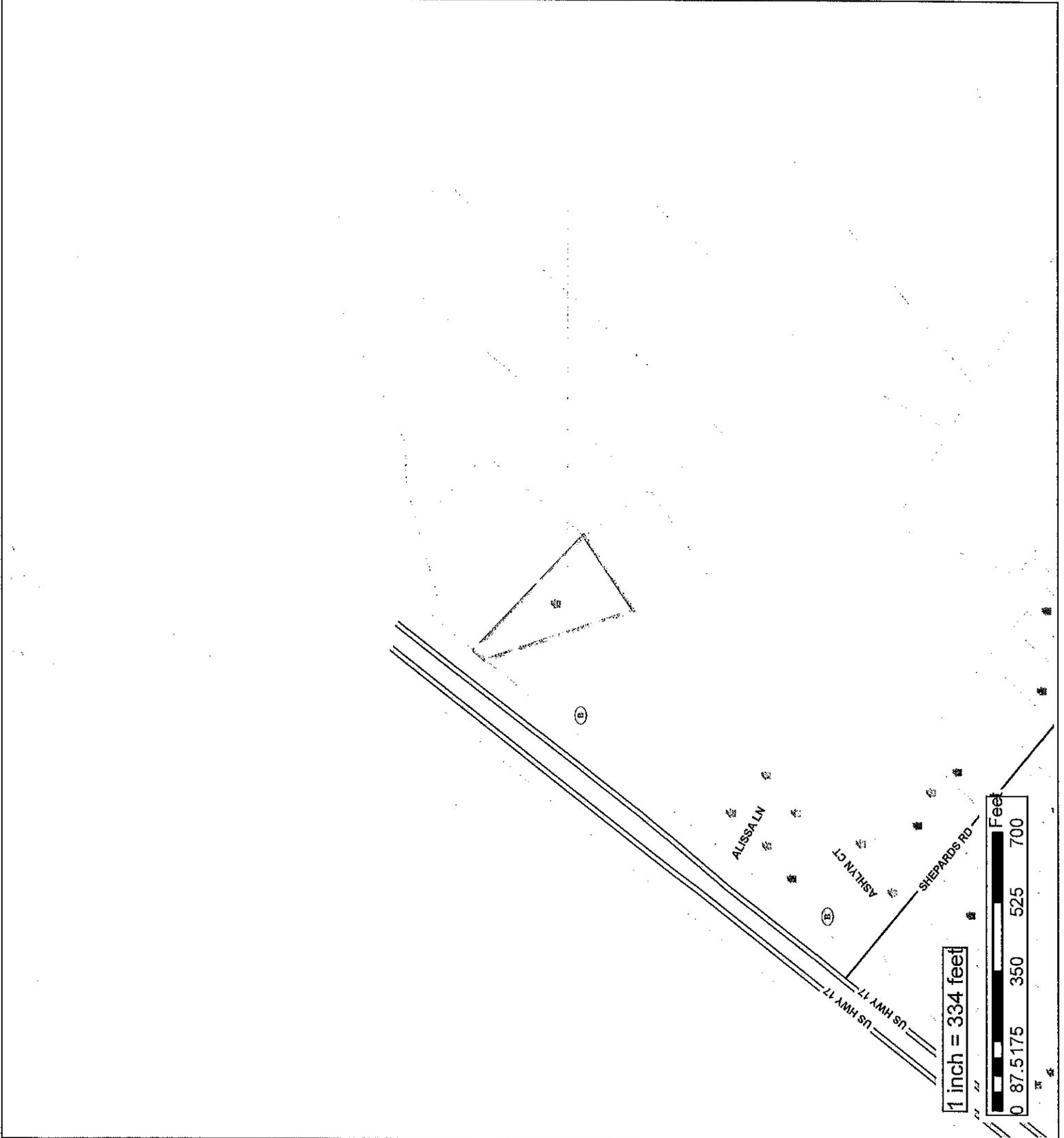
Legend

Structure Type

-  Business
-  Church
-  Farm Use
-  House
-  Manufactured Home



Vicinity





Applicant:
Harold A. Harris

Owner:
Harold A. Harris

**Zoning Map Amendment
11153**

Legend

Pender County Zoning

- EC
- GB
- GI
- INCORP
- IT
- O&I
- PD
- RA
- RP



Zoning - 2012





Applicant:
Harold A. Harris

Owner:
Harold A. Harris

Zoning Map Amendment
11153

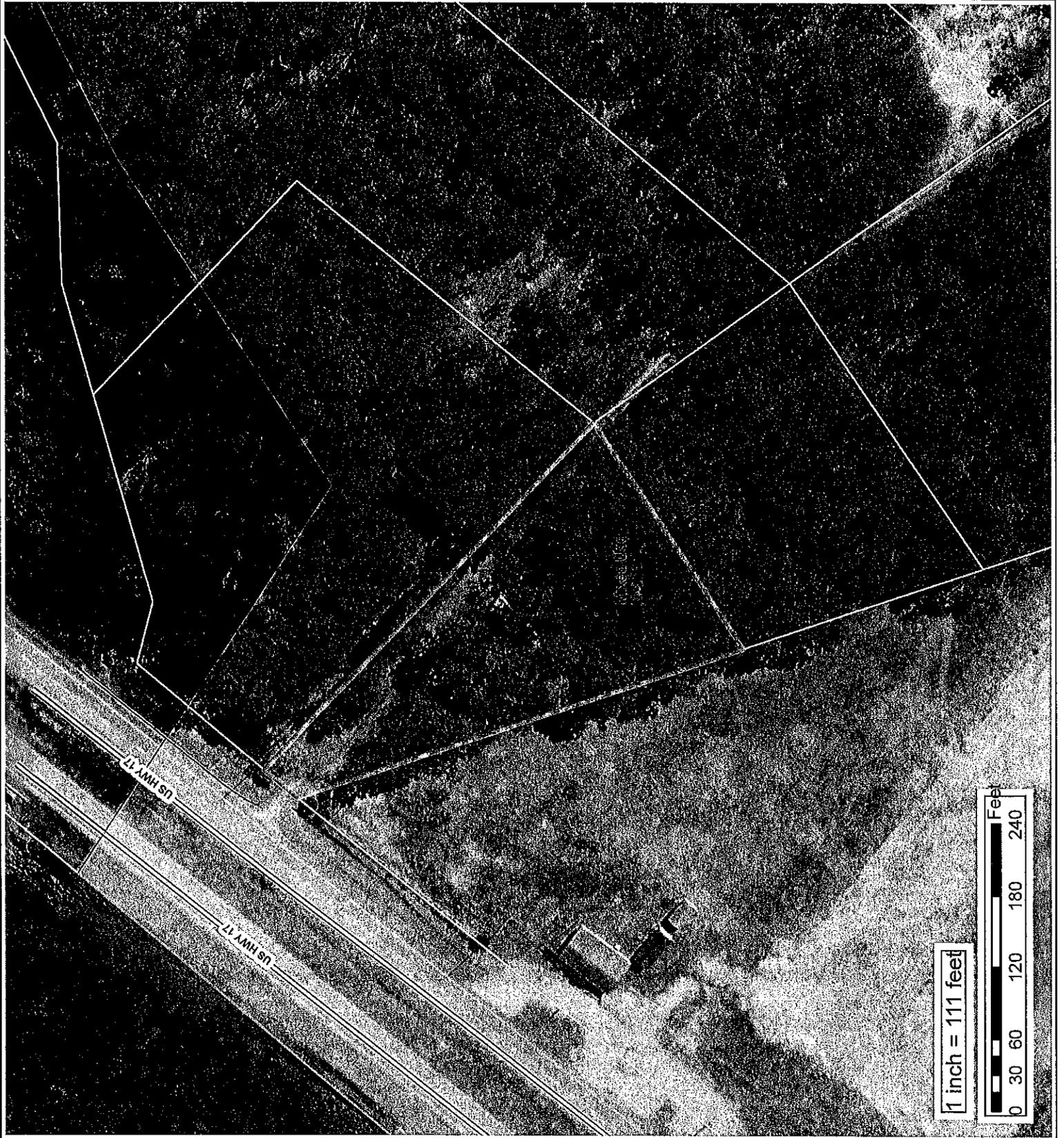
Legend

Future Land Use

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



Future Land Use





Applicant:
Harold A. Harris

Owner:
Harold A. Harris

Zoning Map Amendment
11153



Aerial - 2012

