



REQUEST FOR BOARD ACTION

ITEM NO. 16

DATE OF MEETING: May 26, 2015

REQUESTED BY: Megan O'Hare, Senior Planner, Planning & Community Development

SHORT TITLE: Approval of a Special Use Permit (SUP) for the Operation of a Full Service Restaurant.

BACKGROUND: Alphonso L. Cromartie, applicant, on behalf of John Silva, owner, is requesting approval of a Special Use Permit for the operation of full service restaurant (NAICS 7221; Full-Service Restaurant). There is one (1) tract associated with this request totaling \pm 2.3 acres. The subject property is located at 14581 Ashton Road (SR 1411) in the Long Creek Township and may be further identified by Pender County PIN 3216-56-5573-0000. The property is zoned RA, Rural Agricultural zoning district and according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; NAICS 7221, Full-Service Restaurants are permitted via Special Use Permit

SPECIFIC ACTION REQUESTED: To Hold a Public Hearing and Consider the Approval of a Special Use Permit for a full service restaurant.

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: May 26, 2015

Applicant: Alphonso L. Cromartie

Property Owner: John Silvia

Case Number: 11366

Land Use Proposed: The applicant is requesting the approval of a Special Use Permit (SUP) for the operation of a full service restaurant (NAICS 7221).

Property Record Number and Location: The subject property is located along the south side of Ashton Road (SR 1411) approximately 450 feet east of the intersection of Ashton Road (SR 1411) and Little Kelly Road (SR 1409) in Rocky Point, NC and may be identified by Pender County PIN 3216-56-5573-0000. There is one (1) tract associated with this request.

Zoning District of Property: The property is zoned RA, Rural Agricultural zoning district, and according to the Pender County Unified Development Ordinance Section 5.2.3; full service restaurants (NAICS 7221) are permitted via Special Use Permit in the RA, Rural Agricultural zoning district.

HISTORY:

The existing structure on the subject property was previously a restaurant, has not been leased since mid-2014, according to the applicant. According to Section 10.3.4 of the Pender County Unified Development Ordinance, when a nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, or greater than one hundred eighty (180) days with good cause shown, the property involved may thereafter be used only for conforming purposes. In this capacity, the applicant will bring the project into compliance with the current regulations and standards for the project according to the Pender County Unified Development Ordinance. A Special Use Permit for the property is required for the project to be in compliance with current regulations.

PROJECT DESCRIPTION:

Alphonso L. Cromartie, applicant, on behalf of John Silvia, owner, is requesting approval of a Special Use Permit for the operation of full service restaurant (NAICS 7221; Full-Service Restaurant). There is one (1) tract associated with this request. The subject property is located along the south side of Ashton Road (SR 1411) approximately 450' feet east of the intersection of Ashton Road (SR 1411) and Little Kelly Road (SR 1409), Rocky Point, NC and may be identified by Pender County PIN 3216-56-5573-0000.

The property is zoned RA, Rural Agricultural zoning district, and according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; full-service restaurants (NAICS 7221) are permitted via Special Use Permit in the RA zoning district.

The ± 2.3 acre subject parcel is currently occupied by a vacant structure that was once the location of a full-service restaurant. The proposed full-service restaurant will utilize this existing structure as shown on the applicant's site plan (Exhibit 1). A full service restaurant is categorized by the North American Industry Classification System as; [an] industry comprised establishments primarily engaged in providing food services to patrons who order and are served while seated (i.e, waiter/waitress services) and pay after eating. These establishments may provide this type of food services to patrons in combination with selling alcoholic beverages, providing carry out services, or presenting live nontheatrical entertainment.

Hours of Operation

The applicant's narrative states that the proposed hours of operation are open daily from 7AM – 9PM. According to the applicant's narrative between three (3) and five (5) employees will be working at the restaurant during these hours.

Landscape and Buffers

All landscape and buffers are to be approved in accordance with Section 8.2.8, Project Boundary Buffer of the Pender County Unified Development Ordinance. The vast majority of the existing site is covered with existing vegetation which may be sufficient for buffering, however all buffers will be examined at Major Site Development Plan submittal.

Driveway Access

The applicant is showing direct access to Ashton Road (SR 1411) and is subject to review and approval by the NCDOT through a driveway permit which may be required at the Major Site Development Plan submittal.

Utilities

This restaurant proposal includes a traditional on-site septic which is subject to review and approval by the Pender County Environmental Health Department. A private well for water connection is proposed, also subject to review and approval by the Environmental Health Department.

Prior to the issuance of final zoning approval, a site development plan must be submitted and approved in accordance with applicable provisions of the Pender County Unified Development Ordinance. In addition, all other applicable permits and approvals must be obtained including inspections and health department regulation compliance.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
MISCELLANEOUS USES											
Full Service Restaurants	445	S	S			P	P		P		

EVALUATION:

- A. Public Notifications:** Advertisements for the proposal have been placed in the *Pender-Topsail Post & Voice*. Adjacent property owners were notified by first class mail; as well as a sign advertising the public hearing was placed on the subject property.
- B. Basis for Granting SUP:** See Attachment A for approval procedures (§3.12.3 of Unified Development Ordinance) and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. Unified Development Ordinance Compliance:** The property is currently zoned RA, Rural Agricultural, and according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; full service restaurants are permitted via Special Use Permit in the RA, Rural Agricultural zoning district.
- D. 2010 Comprehensive Land Use Plan Compliance:** The subject property is classified as Mixed Use in the *2010 Comprehensive Land Use Plan*. The Mixed Use land use classification designates locations where a mixture of higher density/intensity uses is to be encouraged. Mixed Use areas 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. The SUP request may be supported by a policy within the *2010 Comprehensive Land Use Plan*:
 - i. **Policy 1A.1.3** - *The County shall actively direct growth towards suitable land areas and away from fragile natural resources areas, conservation areas, and hazardous areas.*
 - ii. **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*
- E. Existing Land Use in Area:** The subject parcel is bordered by low density residential properties to the north and west, a vacant tract to the northwest, and Rocky Point Campground to the south and east.
- F. Site Access Conditions:** The applicant is showing direct access to Ashton Road (SR 1411) and is subject to review and approval by the NCDOT through a driveway permit which may be required at the Major Site Development Plan submittal.
- G. Conditions To Consider In Issuing the Special Use Permit For This Project:**
1. The project shall comply with all requirements of the Pender County Unified Developed Ordinance.
 2. 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.
 3. The applicant shall meet all other local, state and federal regulations.
 4. 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.

Attachment A

3.12.3 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.

3.12.4 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 11366	Date	4-10-15
Application Fee	\$ 300.00	Receipt No.	150778
Pre-Application Conference	4-1-15	Hearing Date	5-26-15
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Alphonso L. Cromartie	Owner's Name:	John + Viola Silvino
Applicant's Address:	920 S. 7th St	Owner's Address:	14497 Ashton Rd
City, State, & Zip	Wilmington, N.C. 28401	City, State, & Zip	Rocky Point NC 28457
Phone Number:	(910) 409-9524	Phone Number:	910.259-9611
Legal relationship of applicant to land owner: <i>None</i>			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	9216-56-5573-0000	Total property acreage:	2.342
Zoning Classification:	RA Rural Agricultural	Acreage to be disturbed:	N/A
Project Address:	14581 Ashton Rd 28457	NAICS Code:	7221
Description of Project Location:	It is a restaurant building that was in use 6 months ago.		
Describe activities to be undertaken on project site:	The building will be used as a new restaurant entity where I will serve lunch and dinner, "Ashton's Place" Restaurant		
SECTION 3: SIGNATURES			
Applicant's Signature	<i>Alphonso L. Cromartie</i>	Date:	3-31-15
Owner's Signature	<i>John Silvino Viola Silvino</i>	Date:	3-25-15
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 1. Applicant must also submit the information described on the Special Use 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 Board of Commissioners or other authorized person agrees to table or delay the hearing. 4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application 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. 			

fonzrp06@yahoo.com

Office Use Only

<input checked="" type="checkbox"/> General/ Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000 <input type="checkbox"/> Tower over 75 Feet/ Fees \$500 <input type="checkbox"/> Minor Revisions / Fees \$100 <input type="checkbox"/> Mining Fees \$750	Total Fee Calculation: \$ <u>300.00</u> Application#: <u>11366</u> Date of Hearing: <u>5-26-15</u>									
Attachments Included with Application: (Please include # of copies)										
CD /other digital version	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Plan Sets	<u>10</u>	# of large		# of 11X17		Other documents/Reports	<input type="checkbox"/> Y <input type="checkbox"/> N	
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:	<u>Pat O'Neil</u>						Date:	<u>4-10-15</u>		
Application completeness approved by:	<u>Pat O'Neil</u>						Date:	<u>4-10-15</u>		

Special Use Permit Checklist

<input checked="" type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<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)
<input checked="" type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
<input checked="" type="checkbox"/>	Project Narrative --Written description of the project (max of 3 pages) including the following: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Location of the project and type of access to project site <input checked="" type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. <input checked="" type="checkbox"/> Description of all construction activities to be undertaken on the site <input checked="" type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers <input checked="" type="checkbox"/> List of all state and federal permits that will be required for the project <input type="checkbox"/> Applicant <u>must specifically address the 8 written findings</u> for Special Use Permit approval which are identified on page 1 of this application and in the Pender County Unified Development Ordinance (Section 3.12.3.G.). 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. The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.
<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, north arrow and the author of the map. This map(s) shall show the following: <ul style="list-style-type: none"> <input checked="" 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. <input checked="" type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road. <input checked="" type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property. <input checked="" type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries. <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. <input checked="" 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. <input checked="" type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO) <input checked="" type="checkbox"/> Landscaping and buffering (See Article 8, Pender County UDO) <input checked="" type="checkbox"/> All signs to be located on the property (See Article 10, Pender County UDO) <input checked="" type="checkbox"/> Pedestrian walks, area lighting and flood lighting. <input checked="" 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 & known or designated wetlands on the site. <input checked="" type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site. <input checked="" type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted. <input checked="" type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.
RETURN COMPLETED APPLICATION TO: Pender County Planning & Community Development P.O. Box 1519 Burgaw, NC 28425	

PROJECT NARRATIVE

1. The project address is 14581 Ashton Rd. Rocky Point, N.C. 28457.
2. A drive way is currently present for an entrance and the same drive way is an exit leading to Ashton Rd.
3. This project site was a full service restaurant seven months ago and I will be with your approval running it the same way as a full service restaurant. We will be serving breakfast, lunch and dinner. Our hours will be Monday thru Sun from 7am - 9pm on the week day and open till 10pm on the weekend. We will have around 3 to 5 employees.
4. There will be no construction activities at this project site.
5. We will have light utilities, gas utilities and water. Which are all in place currently.
6. We will need to obtain a special use permit, health department permit and liquor license.
7. I believe that there won't be a negative impact, instead this establishment will only enhance this beautiful neighborhood. With a restaurant opening here it would help people who don't have adequate transportation to easily eat instead of having to drive to town. Then those people who do have regular transportation will be able to spend that gas money on something else useful.

APPROVAL STANDARDS

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;

1A. I need a special use permit for the use of operating a full service restaurant that was previously used seven months ago.

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;

2A. The requested use will not hurt the community in any way. It will only enhance and help the neighborhood.

3. The proposed use shall not constitute a nuisance or hazard;

3A. The proposed use will be a smooth and quiet operating business that will do no harm to the public.

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;

4A. The requested use will be in compliance with all plans and or policies.

5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;

5A. All utilities, access roads, drainage and sanitation are in compliance.

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;

6A. There is currently an existing driveway that provides ingress and egress.

7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and.

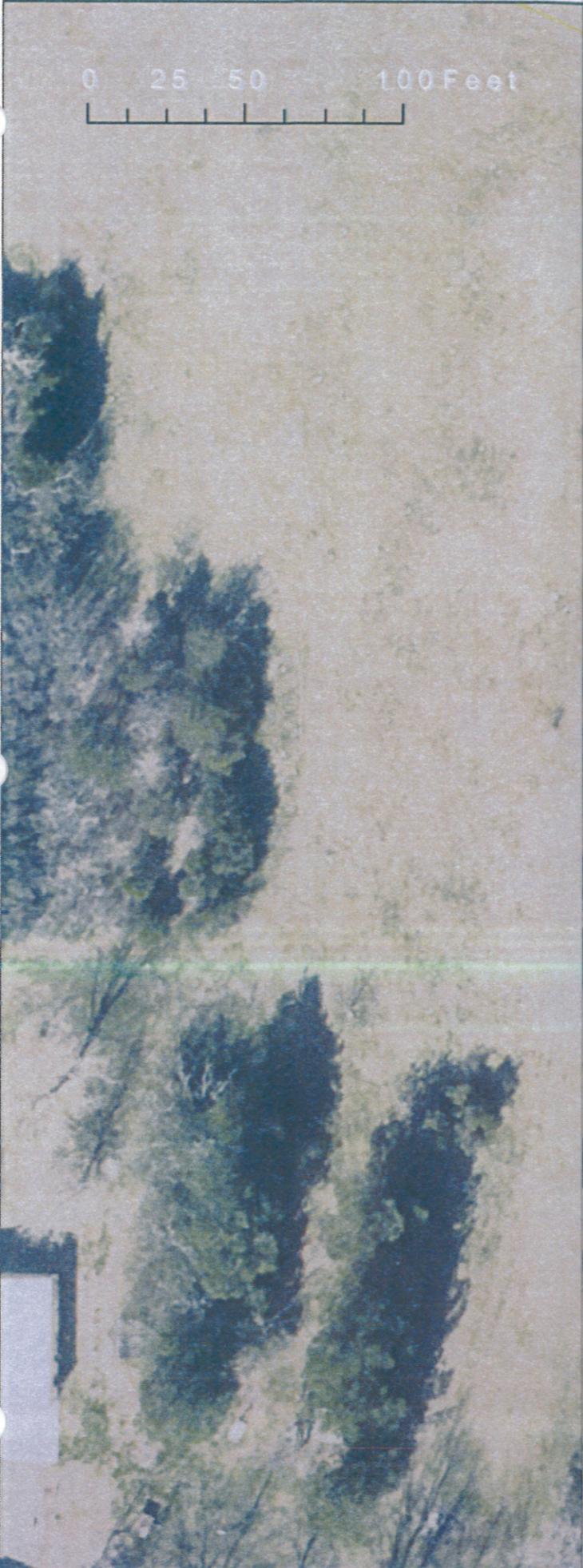
7A. The special use will follow regulations and guidelines of the RA (Rural

Agricultural Zoning District.

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.

8A. The proposed use will not negatively affect the community, surrounding or neighborhood and we are conformed to the space requirements.

0 25 50 100 Feet



"Ashton's Place"
Alphonse, Rosette

4/10/15



Zoning: RA



Applicant:
Alphonso L. Cromartie

Owner:
John Silvia

Special Use Permit:
#11366

Legend



Subject Property



Vicinity





Applicant:
Alphonso L. Cromartie

Owner:
John Silvia

Special Use Permit:
#11366

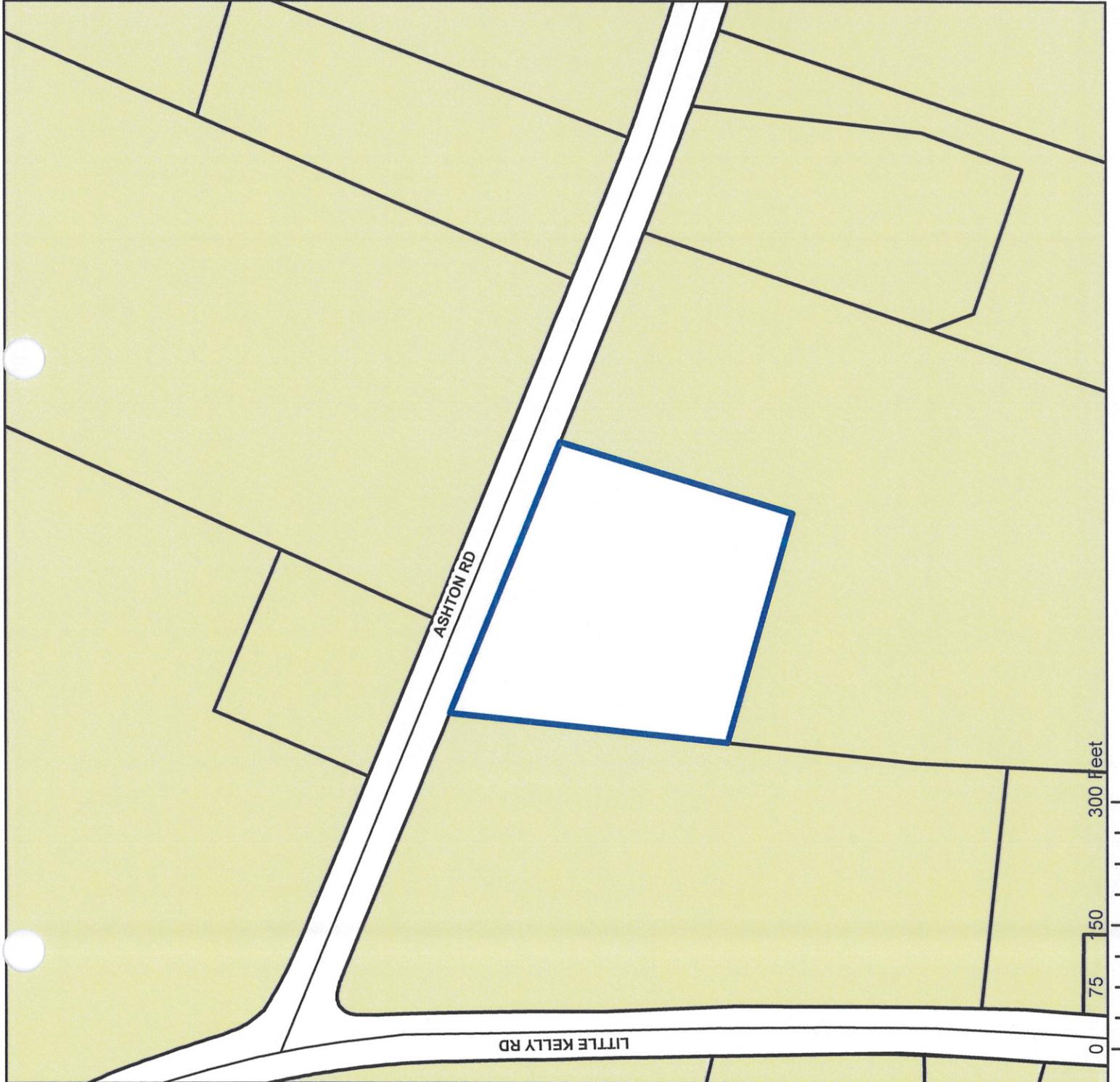
Legend

UDO Zoning

-  EC, Environmental Conservation
-  GB, General Business
-  GI, General Industrial
-  Incorporated
-  IT, Industrial Transition
-  MH, Manufactured Housing
-  O&I, Office & Institutional
-  PD, Planned Development
-  RA, Rural Agricultural
-  RA-Conditional Zoning 1
-  RP, Residential Performance
-  Subject Property



Current Zoning





Applicant:
Alphonso L. Cromartie

Owner:
John Silvia

Special Use Permit:
#11366

Legend

Future Land Use

Industrial

Mixed Use

Office, Institutional, Business

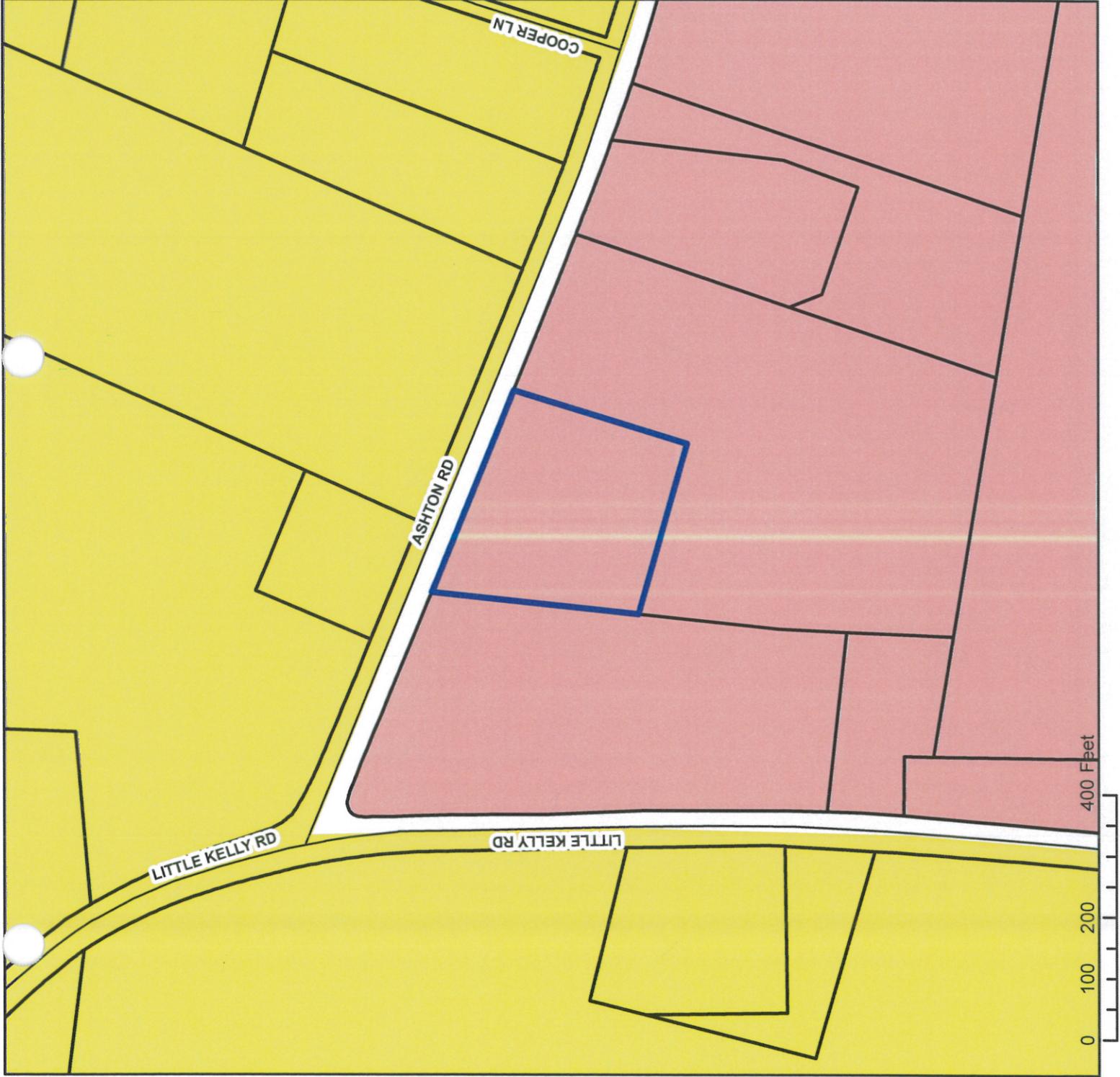
Rural Growth

Suburban Growth

Subject Property



Future Land Use





Applicant:
Alphonso L. Cromartie

Owner:
John Silvia

Special Use Permit:
#11366

Legend

 Subject Property



2012 Aerial

