



REQUEST FOR BOARD ACTION

ITEM NO. 12

DATE OF MEETING: August 24, 2015

REQUESTED BY: Kyle Breuer, Director, Planning & Community Development

SHORT TITLE: Resolution to Approve a Zoning Map Amendment for a general use rezoning of one tract located to the northwest of US HWY 117 approximately one thousand feet north of the intersection of Camp Kirkwood Road (SR 1318) and US HWY 117 from RA, Residential Agricultural zoning district to GB, General Business zoning district.

BACKGROUND: Paula Leick, applicant, on behalf of Marc A. Leick, et al, owner, is requesting approval of a Zoning Map Amendment for a general use rezoning for one (1) tract totaling one (1) acre from RA, Rural Agricultural zoning district to GB, General Business zoning district. The subject property is located along the northwest side of US HWY 117 approximately one thousand feet north of the intersection of Camp Kirkwood Road (SR 1318) and US HWY 117, and may further be identified by Pender County PIN 3322-45-8395-0000.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Zoning Map Amendment for a general use rezoning of one tract from RA, Residential Agricultural zoning district to GB, General Business zoning district.

RESOLUTION

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

On August 24, 2015, the Pender County Board of Commissioners (approved, modified, denied) a Zoning Map Amendment request, 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 ___ Brown ___ McCoy ___ Piepmeyer ___ Keith ___

J. David Williams, Chairman 8/24/2015
Date

ATTEST 8/24/2015
Date

PLANNING STAFF REPORT

Zoning Map Amendment

SUMMARY:

Case Number: ZMA 11380
Hearing Date: July 8, 2015– Planning Board
August 24, 2015– Board of Commissioners
Applicant: Paula Leick
Property Owner: Marc A. Leick, et al

Rezoning Proposal: Paula Leick, applicant, on behalf of Marc A. Leick, et al, owner, is requesting approval of a Zoning Map Amendment for a general use rezoning for one (1) tract totaling one (1) acre from RA, Rural Agricultural zoning district to GB, General Business zoning district.

Property Record Number, Acreage, and Location: The subject property, recorded on Register of Deeds Map Book 1136 Page 206 (Exhibit 1), is located to the northwest of US HWY 117 approximately one thousand feet north of the intersection of Camp Kirkwood Road (SR 1318) and US HWY 117, and may be identified by Pender County PIN 3322-45-8395-0000.

Planning Board Recommendation: The Pender County Planning Board, on July 8, 2015, voted five (5) in favor of and one (1) against passing a motion to recommend approval of the aforementioned zoning map amendment request as reflected in the adopted minutes (Exhibit 2).

Administrator Recommendation: As submitted, the request complies with all criteria set forth in Section 3.3.8 Review Criteria for Rezoning, of the Pender County Unified Development Ordinance and is not in conflict with the 2010 Comprehensive Land Use Plan. The Administrator respectfully recommends approval of the Zoning Map Amendment as described in the following report.

HISTORY:

The subject property was zoned RA, Rural Agricultural zoning district in 2003 and maintained the RA, Rural Agricultural zoning designation with the adoption of the 2010 Pender County Unified Development Ordinance. From the time that zoning was adopted in Pender County in 1988, this parcel has always been zoned RA, Rural Agricultural zoning district.

DESCRIPTION:

Paula Leick, applicant, on behalf of Marc A. Leick, et al, owner, is requesting approval of a Zoning Map Amendment for a general use rezoning of one (1) tract totaling one (1) acre from RA, Rural Agricultural zoning district to GB, General Business zoning district. The subject property is located to the northwest of US HWY 117 approximately one thousand feet north of the intersection of Camp Kirkwood Road (SR 1318) and US HWY 117, and may be identified by Pender County PIN 3322-45-8395-0000. The subject tract is vacant and undeveloped.

The subject property meets the minimum lot size of 15,000 square feet and the minimum rezoning acreage requirement of one (1) acre per Section 4.14 Zoning District Dimensional Requirements of the Pender County Unified Development Ordinance, for the GB, General Business zoning district. Additionally, the subject property meets the requirement of Pender County Unified Development Ordinance Section 4.14.3 as it is adjacent to a property that is currently zoned GB, General Business zoning district.

As shown on the aerial, the tract has direct access to US HWY 117 to the east. The subject property has access to Pender County Utilities water. According to Pender County Utilities, the subject property does not currently have access to sewer.

EVALUATION:

This Zoning Map Amendment request has been evaluated for compliance with the Pender County Unified Development Ordinance and the 2010 Pender County Comprehensive Land Use Plan, as well as the existing land uses and zoning classifications in the surrounding area. The Zoning Map Amendment does not conflict with any existing policies, land uses, or zoning classifications.

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.*

2010 Comprehensive Land Use Compliance: The 2010 Comprehensive Land Use Plan designates the subject property "Rural Growth." Uses that would typically be allowed in Rural Growth areas include very low-density residential development (single-family site-built, modular, and manufactured homes) on one (1) acre or greater size lots; agriculture, forestry, churches; very limited non-residential uses— commercial, office, or public/institutional— meeting locational criteria. Locational criteria for non-residential uses in Rural Growth areas include frontage and access to a major State highway or secondary road, location at a major rural intersection, proximity to similar existing non-residential uses, and spatial separation from non-compatible uses such as existing residential development.

This Zoning Map Amendment request is consistent with one (1) goal and two (2) policies of the 2010 Comprehensive Land Use Plan and conflicts with none. The following goals and policies within this plan may be relevant to the proposed Zoning Map Amendment:

Growth Management Goal 1A.1: Manage the physical growth and development of Pender County by promoting more intensive land uses in key locations identified for such growth while preserving and protecting the unique physical character and social assets of the predominant rural lifestyle and coastal environment that makes the County a unique place to live.

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.

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.

Unified Development Ordinance Compliance: This is a general use rezoning, which will allow all uses permitted by-right in the GB, General Business zoning district as shown in Section 5.2.3 Permitted Use Table of the Pender County Unified Development Ordinance. According to Section 4.9.1 of the Pender County Unified Development Ordinance, the GB, General Business zoning district is primarily intended to accommodate uses which require close access to major highways. The district is established to provide convenient locations for businesses which serve the needs of surrounding residents, including office, retail, and personal service uses.

Existing Zoning: Adjacent properties to the north, east, and west are zoned RA, Rural Agricultural zoning district. To the south, four (4) consecutive parcels are zoned GB, General Business zoning district. A Zoning Map Amendment request for a general use rezoning of these four (4) parcels to the south from RA, Rural Agricultural zoning district to GB, General Business zoning district was approved by the Pender County Board of Commissioners in July and August of 2014, after the four (4) parcels were inadvertently affected by a zoning change in 2009 in which the tracts were reverted to RA, Rural Agricultural zoning district, from B-2, Business District (Highway).

Existing Land Use: The subject tract is vacant, wooded, and undeveloped. The property is bordered by a parcel one (1) acre in size containing a single-family home to the north, by vacant wooded parcels to the south and west, and by agricultural land across US HWY 117 to the east.

Environmental Concerns: According to FEMA Flood Insurance Rate Map Number 3720332200J Panel 3322 (adopted February 16, 2007) the tract is not located within any Special Flood Hazard Area (SFHA). Additionally there are no navigable waters on this property requiring compliance with CAMA regulations managed by the Division of Coastal Management.

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, and a sign has been placed on the subject property.

Prior to any development on the subject property, all necessary local, state, and federal permits would be required.

Recommendation: The application consists of a general use rezoning of one (1) tract, totaling one (1) acre from RA, Rural Agricultural zoning district to GB, General Business zoning district. As submitted, the application is consistent with one (1) goal and two (2) policies of the 2010 Pender County Comprehensive Land Use Plan, with the Pender County Unified Developed Ordinance, and with other adopted planning documents.

According to the 2010 Pender County Comprehensive Land Use Plan, locational criteria for non-residential uses in Rural Growth areas include frontage and access to a major State highway or secondary road, location at a major rural intersection, proximity to similar existing non-residential uses, and spatial separation from non-compatible uses such as existing residential development. The subject property may not meet the locational criteria of spatial separation from non-compatible uses such as existing residential development, as there is an adjacent parcel one (1) acre in size to the north that contains an existing single-family residential home. The subject property meets the locational criteria of including frontage and access to US HWY 117, a major highway, in addition to being located at the major rural intersection of Camp Kirkwood Road (SR 1318) and US HWY 117. The 2010 Pender County Comprehensive Land Use Plan does not provide a specific definition of "location at a major rural intersection." The subject property is located approximately one thousand feet north of the intersection of Camp Kirkwood Road (SR 1318) and US HWY 117. Four (4) parcels that are zoned GB, General Business zoning district, are located between the subject property and the intersection of Camp Kirkwood Road (SR 1318) and US HWY 117. Staff, with recommendation from the Pender County Planning Board, respectfully recommends approval for this general use rezoning.

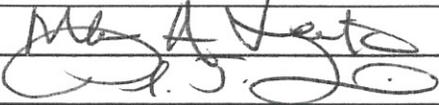
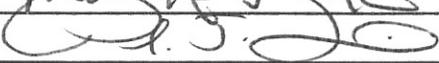
Planning Board

Motion: Edens **Seconded:** Marshburn

Approved: x **Denied:** **Unanimous:**

Williams: x McClammy: x Fullerton: Baker: Edens: x Marshburn: x Nalee: x

APPLICATION FOR REZONING (Zoning Map Amendment)

THIS SECTION FOR OFFICE USE			
Application No.	ZMA 11380	Date	4-29-15
Application Fee	\$ 500 ⁻	Receipt No.	150963
Pre-Application Conference	4-29-15	Hearing Date	PB - 7-7-15 7-8-15 BOCC 8-24-15
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Paula J. Leick	Owner's Name:	Marc and Paula Leick
Applicant's Address:	734 Beachwalk Dr	Owner's Address:	same
City, State, & Zip	Winnabow	City, State, & Zip	NC 28479
Phone Number:	910-512-6124	Phone Number:	
Legal relationship of applicant to land owner:			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3322-45-8395-0000	Total property acreage:	1
Current Zoning District:	RA	Proposed Zoning District:	commerical - GB
Project Address :	117 HWY Watha, NC		
Description of Project Location:	Approximately 1000' north of Camp Kirkwood Rd along US Hwy 117.		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	4/27/2015
Owner's Signature		Date:	4-27-15
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 checked="" type="checkbox"/>	Application fee					
<input checked="" 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 checked="" 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 checked="" type="checkbox"/>	Digital (.pdf) submission of all application materials					
<input checked="" 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: \$ 500-					
Attachments Included with Application: (Please include # of copies)						
CD /other digital version	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Plan Sets	# of large	# of 11X17	Other documents/Reports	<input checked="" type="checkbox"/> Y <input 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 # <u>6174</u>		
Application received by:	<i>Anders H. Ciuf</i>				Date:	4-29-15
Application completeness approved by:	<i>Anders H. Ciuf</i>				Date:	4-29-15
Dates scheduled for public hearing:						
<input checked="" type="checkbox"/> Planning Board: 7-7-15 7-8-15						
<input checked="" type="checkbox"/> Board of Commissioners: 8-24-15						

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

Print Form

April 27, 2015

Pender County Planning Board
805 S. Walker St.
Burgaw, NC 28425

This is a request for approval of a Zoning Map Amendment for a general use rezoning of one tract of land of one (1 acre) from RA, Rural Agricultural, to GB, General Business District. The subject property is located on the northwest corner of the intersection of Camp Kirkwood Road (SR 1318) and US HWY 117, and is identified by the Pender County Pin 3322-45-8395-0000.

We were not made aware until July 2014 that the adjacent property owned by Melanie G. Herring and Keith Tatro, had been changed to GB, General Business that corrected a zoning change made back in 1999. We were never contacted in 1999 to the change in the rezoning of this property or the properties from the corner of Camp Kirkwood Road and US HWY 117. We were very surprised last year in receiving the Notice of Public Hearing stating that the Pender Planning Board was correcting an error made in 2009 - 2010 when four tracts, one of which is adjacent to ours, were inadvertently switched to RA, Rural Agricultural from GB, General Business. The planning board approved in September 2014 to correct this issue, which leaves Pin 3322-45-8223-0000 owned by Ms. Herring to B-2 Business next to our property that is zoned as RA, Rural.

Since a large commercial store/business can be constructed on the adjacent properties along with parking facility; this has now devalued our property for resale. We would not want to build a home on this parcel and would have a difficult time trying to sell as residential land.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Leick", with a large, stylized flourish extending to the right.

Paula Leick
734 Beachwalk Dr.
Winnabow, NC 28479
PH: 910-512-6124

IN TESTIMONY WHEREOF, the above corporate Grantor has caused this instrument to be executed in its corporate name by its _____

attested by its _____ Secretary,
and its corporate seal to be hereto affixed all by the lawful order of its Board of Directors first duly given, with this sealed instrument being delivered on the date first above written.

(CORPORATE NAME)
By: _____

President

By: _____

ATTEST:

Secretary
(CORPORATE SEAL)

IN TESTIMONY WHEREOF, the above partnership Grantor, Limited Liability Company, or Limited Liability Partnership has caused this instrument to be executed in the appropriate company or partnership name by duly authorized general partner(s) or managers, and has adopted as its seal the word "SEAL" appearing beside its name, this sealed instrument being executed and delivered on the date first above written.

(SEAL)
NAME OF PARTNERSHIP, LLC, OR LLP

By: _____ (SEAL)

Title:

IN TESTIMONY WHEREOF, each individual Grantor **EXHIBIT 1** set his hand and adopted as his seal the word "SEAL" appearing beside or near his signature, this sealed instrument being executed and delivered on the date first above written.

Grantor: _____ (SEAL)

Grantor: _____ (SEAL)

Grantor: _____ (SEAL)
Paula J. Leick

Grantor: _____ (SEAL)

SEAL STAMP STATE OF NORTH CAROLINA, COUNTY OF Pender



Cynthia R. Fennell a Notary Public, do hereby certify that Marc A. Leick and wife, Paula J. Leick Grantor,

personally appeared before me this day and acknowledged the execution of this Deed of Trust.

Witness my hand and official stamp or seal, this 17th day of May, 19 96

My Commission Expires: 11-20-99 Cynthia R. Fennell
NOTARY PUBLIC

SEAL STAMP STATE OF NORTH CAROLINA, COUNTY OF _____
I, _____ a Notary Public, do hereby certify that _____ Grantor,

personally appeared before me this day and acknowledged the execution of this Deed of Trust.

Witness my hand and official stamp or seal, this _____ day of _____, 19 _____

My Commission Expires: _____
NOTARY PUBLIC

SEAL STAMP STATE OF NORTH CAROLINA, COUNTY OF _____
I, _____ a Notary Public, do hereby certify that _____

personally appeared before me this day and acknowledged that he/they is/are _____ (indicate whether general partners or managers) of _____, and further acknowledged the due execution of this Deed of Trust on behalf of the _____

Witness my hand and official stamp or seal, this _____ day of _____, 19 _____

My Commission Expires: _____
NOTARY PUBLIC

SEAL STAMP STATE OF NORTH CAROLINA, COUNTY OF _____
I, _____, a Notary Public of _____ County, North Carolina, do hereby certify that _____ personally appeared

before me this day and acknowledged that _____ he is _____ Secretary of _____

_____, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal, and attested by _____ self as its Secretary.



RETAIL NOTE AND SECURITY AGREEMENT

CUSTOMER NUMBER 225-001554 EXHIBIT 1

NOTE NUMBER 9003

DATE MAY 17, 1996

CREDITOR: BRANCH BANKING AND TRUST COMPANY, POST OFFICE BOX 1626, WILSON, NORTH CAROLINA 27894

DEBTOR(S): MARC A LEICK and PAULA J LEICK

(In this Retail Note and Security Agreement (also called Contract) the words, I, me, my, mine and us mean each and all of those signing the Contract. The words you, your, and yours mean Branch Banking and Trust Company.) In return for a loan that I have received from you, I promise to pay to your Order at the office in the above city the amount of: NINE THOUSAND DOLLARS & 00/100

U.S. \$ 9,000.00 (the "principal"), plus interest on the unpaid principal from the date of this Contract at the yearly (choose one only):

[X] FIXED RATE OF 8.625 %; OR

[] VARIABLE RATE OF % TO BE ADJUSTED (THE INITIAL RATE)

BASED UPON

Handwritten signature: Steven S. Nichols, AUTHORIZED SIGNATURE, dated July 25 2001.

together with insurance charges and LATE CHARGES if any, according to the Payment Schedule and other Contract terms as set forth below in the Special Regulation Z Truth in Lending Disclosure Box (herein Special Regulation Z Disclosures) and according to other Note terms as provided below:

Interest: Interest will be charged on that part of the principal which has not been paid and unless I have the right to rescind, will be charged beginning on the date of this Note and continuing until the full amount has been paid.

[] If checked here, I have the right to rescind this loan. If I choose not to do so, I understand my interest charges will begin to accrue on

Security for Payment and Performance. To protect you if I default in the payment or performance of any obligation arising under the terms of the Contract, I grant you a security interest in certain property and in all additions, accessions, parts, and equipment attached to property and in all substitutions, along with any proceeds of the property (hereinafter collectively referred to as "Collateral") as described below:

[X] If checked here, I have given you a security interest in certain personal property as described in a separate Assignment or Security Agreement ("Security Agreement") and/or I have executed a mortgage or deed of trust ("Mortgage") in favor of you which when recorded will be a lien on real property described in that document.

[] If checked here, I have given you a security interest in certain personal property as described below.

Table with 7 columns: Collateral Description, YEAR, MAKE, TYPE BODY, MODEL, SERIAL NUMBER(S), MOBILE HOME, SIZE, BEDROOMS

OTHER

Except as to any collateral Borrower(s) now use or are purchasing to use as Borrower(s)' principal dwelling (such as a mobile home), this security interest shall also secure any other outstanding or future debts of Borrower(s) to Bank. The collateral will normally be kept at this address:

If the property is affixed or is to be affixed to real estate, the real estate is described as follows:

and the record owner is:

SPECIAL REGULATION Z DISCLOSURES

Table with 5 columns: ANNUAL PERCENTAGE RATE (8.74%), FINANCE CHARGE (\$4,505.40), Amount Financed (\$8,955.00), Optional Group Credit Insurance, Total of Payments (\$13,460.40)

MY PAYMENT SCHEDULE WILL BE:

Table with 3 columns: Number of Payments (120), Amount of Payments (\$112.17), When Payments Are Due (Monthly beginning JUNE 16, 1996)

SECURITY: I am giving a security interest in:

- [X] The goods or property being purchased.
[] Other

Collateral securing other loans may also secure this loan.

LATE CHARGE: If a payment or any part of a payment is past due 15 or more days after the due date, I will be charged 4% of the amount of the payment past due. When an installment payment is past due 15 or more days, subsequent payments will first be applied to the past due balance.

VARIABLE RATE: [] If checked here, my loan contains a variable rate feature and is secured by my principal dwelling. Disclosures about the variable rate feature have been provided to me earlier.

[] If checked here, my loan contains a variable rate feature, but is not secured by my principal dwelling or is secured by my principal dwelling but has a maturity of one year or less. The ANNUAL PERCENTAGE RATE may increase or decrease on my loan as the increases or decreases.

My rate will not change more often than and it will not increase above %; nor decrease below %.

Any increase in rate will result in higher payments, or additional payments, or higher final payment. (See HYPOTHETICAL VARIABLE RATE EXAMPLES below.) ASSUMPTION NOTICE: If this loan finances the purchase of property to be used as my principal dwelling, someone buying my dwelling cannot assume the remainder of this loan under the original terms.

Information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties appears in my contract document.

E means an estimate (If a box [] is not checked that term does not apply.)

"EXHIBIT A"

BK 113693205

Located in Union Township, Pender County, N.C. adjacent to and West of the Western Right-of-Way line of U.S. Highway No. 117 and being more fully described as follows, to wit:

BEGINNING at an iron pipe in the Western Right-of-Way line of U.S. Highway No. 117, said iron pipe being located along said line at a point that is the following courses and distances from N.C. GRID MONUMENT "TWIN": South 44 degrees 24 minutes 51 seconds West 191.32 feet and South 04 degrees 25 seconds 57 minutes West 562.03 feet to the BEGINNING; and running thence, from the BEGINNING, so located,

- (1) with the Western Right-of-Way line of U.S. Highway No. 117, South 04 degrees 25 minutes 57 seconds West 122.50 feet to an iron pipe in line; thence,
- (2) North 85 degrees 34 minutes 01 seconds West 376.42 feet to an iron pipe in the Richard C. Hall line; thence,
- (3) with said line North 23 degrees 16 minutes 28 seconds East 129.44 feet to an iron pipe in line; thence,
- (4) South 85 degrees 34 minutes 01 seconds East 334.62 feet to the BEGINNING,

containing 1.00 acres more or less and is as surveyed by Thompson Surveying Company, P.A. of Burgaw, N.C. during May 1991.

As a reference to the above described tract see Book _____, Page _____ of the Pender County Registry.

THIS conveyance is made expressly subject to the following restrictive covenants:

1. Property restricted to single-family homes containing at least 1350 square feet heated space.
2. No mobile homes (single or double-wide) shall be placed upon said lots.
3. Lot owners may keep and maintain dogs and cats on said lots, but shall be kept to a maximum of five (5) dogs and/or five (5) cats.
4. No junk vehicles, junk or debris shall be allowed on any lot.

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

MINUTES

**Pender County Planning Board Meeting
Wednesday, July 8, 2015 7:00 p.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina**

Call to Order: Chairman Williams at 7:02 pm.

Roll Call: Chairman Williams

Pender County Planning Board Members:

Williams: McClammy: Baker: Edens: Fullerton: Marshburn: Nalee:

- 1. Adoption of the Agenda:** Board member Edens made the motion to adopt the agenda; seconded by Board member Marshburn. The vote was unanimous.
- 2. Adoption of the Minutes: (June 2, 2015)** Board member Marshburn made the motion to adopt the minutes; seconded by Board member Edens. The vote was 4 in favor with Vice-Chairman McClammy and Board member Fullerton abstaining from voting due to their absence from the June meeting.
- 3. Public Comment:** No sign-ups for public comment.

(Public Hearings Open)

4. Zoning Map Amendment:

Paula Leick, applicant, on behalf of Marc and Paula Leick, owners, requested approval of a Zoning Map Amendment for a general use rezoning of one (1) tract totaling one (1) acre from RA, Rural Agricultural zoning district to GB, General Business zoning district. The subject property is located along the northwest side of US HWY 117, approximately one thousand feet north of the intersection of Camp Kirkwood Road (SR 1318) and US HWY 117, and may be further identified by Pender County PIN 3322-45-8395-0000. Senior Planner O'Hare presented and gave background information for agenda item 4. Board member Fullerton stated that unfortunately when there are Zoning Districts someone has to be next to another zone, if the request is granted "How far do we want the General Business zone to go away from the said intersection and along Hwy 117" cause the same argument could be used for the next one (1) acre lot which currently has a house on it, it would be like the "domino effect". Board member Fullerton commented that the applicant had no said plans for the property and had stated that their property was devalued since it's located next to the General Business zone, but he was not sure if there was any evidence from the Tax office to support the applicants statement. Board member Fullerton asked what would be staff's recommendation on how much General Business would they want to see in that location and stated that his concern was for the protection of the northern properties in the RA, Rural Agricultural zone and the expansion of the General Business zone without any firm idea of how far the General Business zone will go. Chairman Williams asked what the distance was between the intersection and the south corner of the said property; Ms. O'Hare stated that staff had a rough calculation of about one thousand (1000) feet and

that the 2010 Comprehensive Land Use Plan doesn't provide a specific definition for how far away the location must be from an intersection. In response to Board member Fullerton, Attorney Thurman stated that the Tax office only does a revaluation of property every eight (8) years and that a zoning change to the property next to yours would not result in a value change to your property. Director Breuer stated that the location criteria in the plan were subjective due to no definition and staff would need direction from the Board on how to define the location. Paula Leick, applicant, stated that her request is based on the fact that she was not aware of any changes to the adjoining property prior to 2014 when she received a letter regarding the change due to a mapping error, it was her understanding that the whole area was residential, that she had no intentions of building a home on the property and doesn't believe she would ever do such since it is next to commercial and believed it would be hard to sell as residential. There were no sign-ups for comments. Chairman Williams opened the floor for the Board's discussion. Board member Fullerton stated that he didn't think rezoning requests should be taken lightly, that with all respect to the applicant when they bought the property it was adjacent to business properties that were changed to residential by mistake, which was corrected in September 2014, the County doesn't have a plan to have a business area in that location, and there is just not a good reason for further expansion of the current GB, General Business zone. Ms. Leick asked if she could respond, Chairman Williams allowed the applicant to respond. Ms. Leick stated that she bought the property in 1996, that there were seven (7) properties at that time and they were all zoned residential and the original property owner had restrictions attached to the deeds. Board member Fullerton asked if staff had any dates of when any of the said properties became business; Director Breuer answered that when staff did their research for a previous case, the property owner had petitioned in 1999 to rezone the property from RA, Rural Agricultural to B2 but did not include the tract being requested. Board member Edens stated that one thousand (1000) feet didn't seem like a far distance from an intersection. Vice-Chairman McClammy asked Director Breuer to refresh the Board with the history of the other parcels; Director Breuer gave an overview of the GIS mapping error that resulted into the staff driven Zoning Map Amendment in September 2014.

Board member Edens made a motion to approve the requested Zoning Map Amendment as presented; seconded by Board member Marshburn. The vote was 5 for approval and 1 against.

Director Breuer stated that the request would be heard by the Pender County Board of Commissioners at their August 2015 meeting.

5. Master Development Plan Revision:

Signature Top Sail NC, LTD, applicant and owner, requested a revision to the previously approved Master Development Plan, for the residential subdivision known as Wyndwater. Specifically the request is to increase the overall project area, add attached duplex housing type, and increase the overall project density. The subject property is zoned PD, Planned Development zoning district. The property is located to the north of Doral Drive (SR 1693), northwest of Sloop Point Loop Road (SR 1563), south of the approved Cardinal Pointe subdivision and east of US Highway 17 in Hampstead. The property may be further identified by Pender County PINs 4214-12-4590-0000 and a portion of the property located at 4204-94-9912-0000. Senior Planner O'Hare presented and gave background information for agenda item 5. The Board had no questions for staff at this time; Chairman Williams asked to hear from the applicant. Mike Pollak, developer, thanked staff for their work and gave an overview of the project, Mr. Pollak showed the Board the project's website and explained the type of products they planned to build and thanked the Board for considering the request. Chairman Williams asked if the primary reason for the request was due to sewer becoming available; Mr. Pollack answered yes and the fact that the project was growing. Chairman Williams opened the floor for sign-ups and reminded everyone that there was usually a two (2) minute time limit per speaker but the Board had agreed to allow four (4) minutes per speaker. Ron Maier, 911 Kontiki Court, thanked staff for spending time with the residents and explaining what was taking place next to their community; stated that he understands Topsail Greens Drive belongs to developer, but has concerns

about the traffic increase on Topsail Greens Drive as a result of Phase III; that it would seem logical for a new road to be built at the time of installing the new sewer lines, the density increase, protection of the wetlands, drainage issues, and would prefer to have a C4 Buffer for Phase I and Phase II. Bob Cramblitt, 811 Jetty Court, stated that he liked the community, hopes that the existing community doesn't get compromised by the new development. Mr. Cramblitt gave an overview of his community and neighbors. Paul Godridge, 623 Outrigger Court, stated that his concern was that Phase III would increase traffic on Champion Drive which was a private road, that it would be "human nature" for people to use Champion Drive due to it being a closer and faster route. Al Burfield, 353 Topsail Plantation Drive, stated that his concerns were; that when public sewer and water was available existing property owners would be required to tap into it, the plan for traffic control, and stated that he wished the developers would break out the mapping of their proposed development that it would be nice to see the plans for the future phases and traffic flow. Mary Rogers, 910 Lighthouse Court, president of the Topsail Greens Homeowners' Association, asked permission to read an email from a resident that couldn't make the meeting, Chairman Williams allowed the request. Ms. Rogers read an email from Richard Sponable, 908 Lighthouse Court, stating that he was opposed to the request, that this would be the second request from the applicant and the whole plan had changed. Ms. Rogers stated that the development plans were beautiful and nice, but her concern was the traffic and hoped that the developers would make it a priority to build a new road for the main entrance of the development. Due to no further sign-ups, Chairman Williams opened the floor for the Board's discussion. Board member Nalee commented that it was clear the residents' concerns were traffic and density. Mike Pollak, developer, stated that the technical aspects come after the Master Plan approval, that once the plan is approved the next step would be to submit a traffic impact analysis; unfortunately he had no answers regarding the proposed traffic flow because they haven't gone through the process yet. Director Breuer stated that for the point of clarification and not to get ahead of the process, the Master Development Plan before the Board is to allow the duplex housing type which will increase the density, the developer will have to be back before the Board with a specific plan for each phase in order to move forward with development and as a response to Mr. Burfield's concern, at this time the County has no regulations requiring existing homes to tap into public water and doesn't believe that a private utility provider such as Pluris, has the authority to make existing homes connect. Board member Edens asked the developer to point out on the site map where the proposed duplexes would be located, Mr. Pollak pointed out the proposed area on the site map. Vice-Chairman McClammy commented that he understood the residents' concerns and asked when would answers be available regarding the traffic plans; Director Breuer stated that a Traffic Impact Analysis would be done and from that recommendations for improvements would be determined, but the Traffic Impact Analyze is not designed to analyze private internal roadways of developments; Mr. Breuer gave a detailed overview of the process, but did not have an exact date for when the traffic plans would be finalized, but it would be prior to the approval of the Master Development Plan. Vice-Chairman McClammy asked Ms. Rogers if the residents had given any thought to concrete recommendations in regards to the requested revisions of the Master Plan; Ms. Rogers answered no, just exploring options and will discuss ways to limit traffic from using Champion Drive, would be happier if a second road was built to enter the development. Chairman Williams stated that the overall density did not appear to be a tremendous change and asked staff for confirmation on the density change; staff confirmed the calculations. Chairman Williams asked for any other questions or comments, due to nothing further Chairman Williams asked for a motion.

Vice-Chairman McClammy made a motion to approve the requested Master Development Plan Revision as presented and stated in the staff report; seconded by Board member Fullerton. Senior Planner O'Hare asked if the motion included the potential approved conditions stated in the staff report; Vice-Chairman asked Ms. O'Hare to please state those conditions. Vice-Chairman stated that the said conditions were included in his motion; Board member Fullerton confirmed his second and noted that the conditions could be found in the staff report. The vote was unanimous.

(Public Hearings Closed)

6. Discussion Items:**a. Planning Staff Items:**

- i. Buffers Update:** Director Breuer stated that when staff receives inquiries regarding development standards, they analyze them and like to bring them to the Board's attention. Director Breuer explained the current buffer regulations, the inquiry requesting a change, the change options proposed in the memo provided to the Board and asked the Board for direction in regards to a staff driven Zoning Text Amendment. Board member Fullerton recommended option 1 "Use Buffer" with defined conditions. The Board directed staff to move forward with creating some conditions and bring it back to the Board for discussion.
- ii. Collector Street Plan Update:** Director Breuer advised the Board that the Board of Commissioners appointed the Collector Street Plan Steering Committee on July 7, 2015, the kickoff meeting would be held in approximately two (2) weeks and staff would provide the Board with an update each month.
- iii. Comprehensive Land Use Plan Update:** Director Breuer advised the Board that funding had been approved for an update to the Comprehensive Land Use Plan, staff was currently working on preliminary planning and information inventory, and that Allen Serkin would be coming next month to give a presentation.
- iv. General Announcements:** Senior Planner O'Hare reminded the Board of the TRC meeting scheduled for Tuesday, July 14, 2015. Director Breuer announced that Ms. O'Hare had received her CZO certification.

b. Planning Board Members Items:

Chairman Williams announced that he was a Granddad; his daughter had a baby boy on Monday. He then thanked Senior Planner O'Hare for the job she did at the last meeting in Director Breuer's absence.

- 7. Next Meeting:** August 4, 2015, Director Breuer stated that there were no cases for the August meeting and proposed having the scheduled September work session in August if no case came in before the deadline for the September meeting. The Board accepted Director Breuer's proposal; Director Breuer advised the Board that he would follow up via email once the deadline for the September meeting passed.

- 8. Adjournment:** 9:15 pm

The entire recording of the Planning Board Meeting is on file with the permanent records in the Planning Department office.



Applicant:
Paula J. Leick

Owners:
Mark A, Leick et. al.

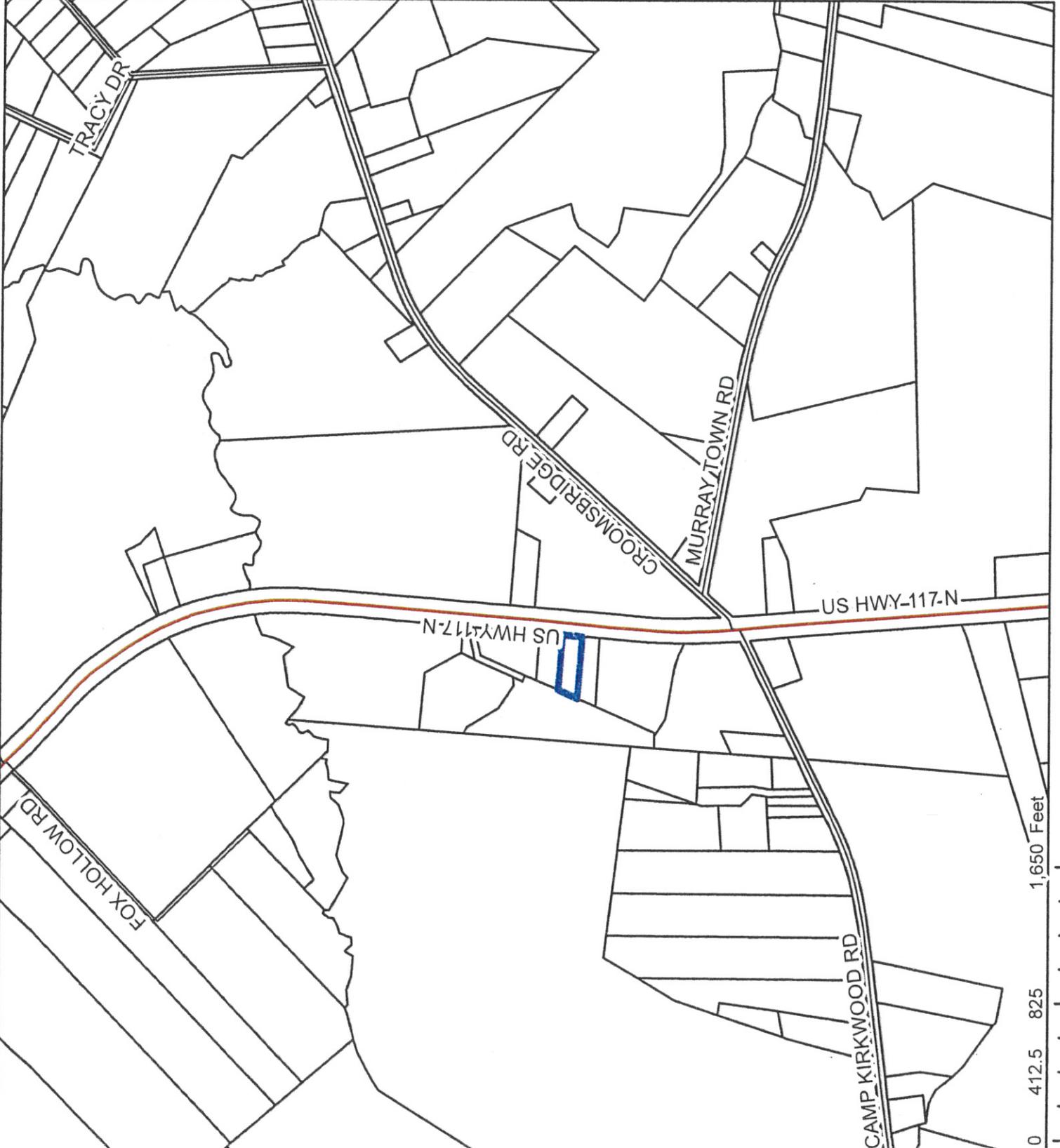
Case #11380
General Use Rezoning

Legend

 Subject Property



VICINITY





Applicant:
Paula J. Leick

Owners:
Mark A, Leick et. al.

Case #11380
General Use Rezoning

Legend



Subject Property
UDO Zoning

-  GB, General Business
-  O&I, Office & Institutional
-  PD, Planned Development
-  RA, Rural Agricultural
-  RP, Residential Performance



CURRENT ZONING





Applicant:
Paula J. Leick

Owners:
Mark A, Leick et. al.

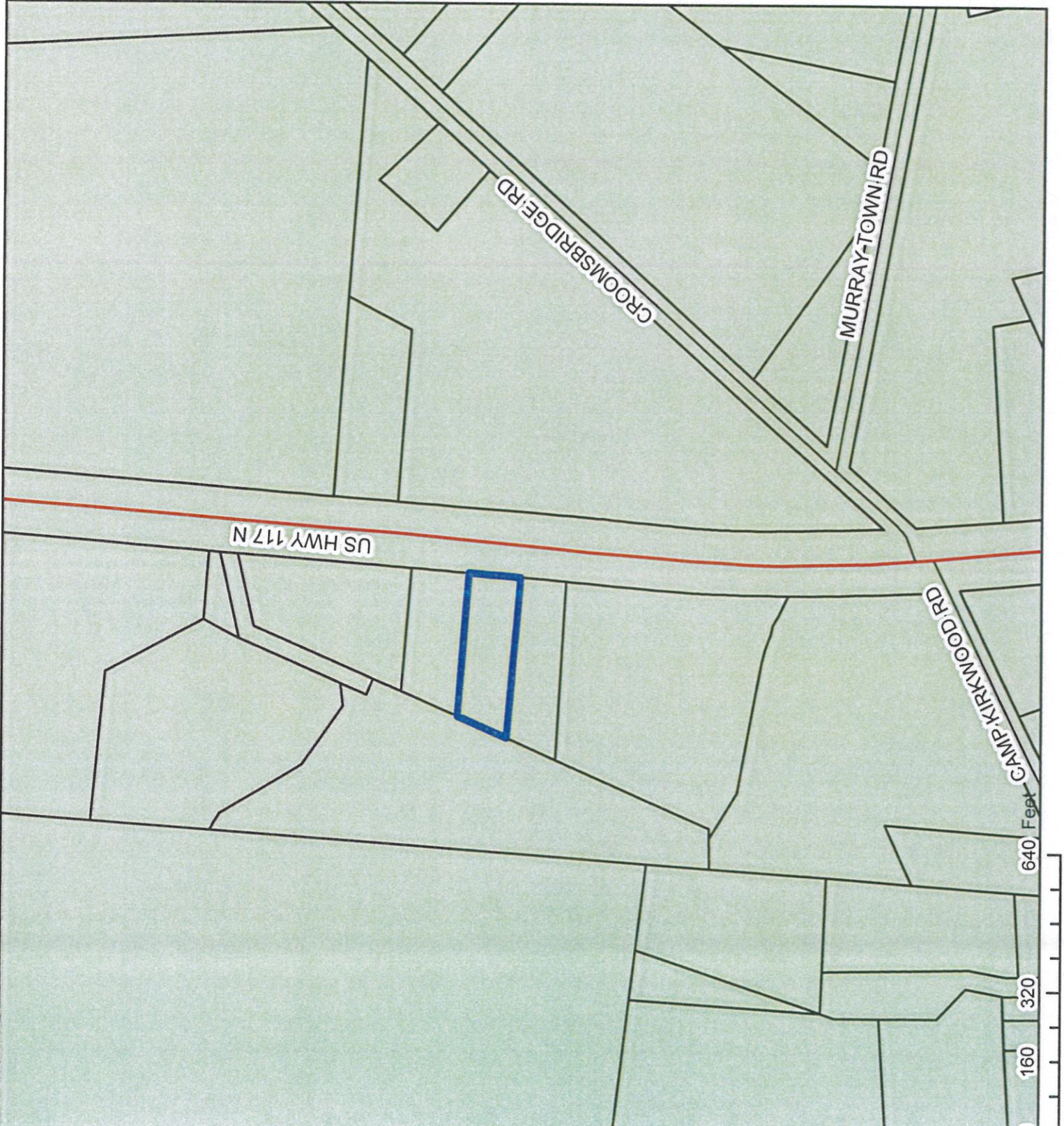
Case #11380
General Use Rezoning

Legend

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



**FUTURE
LAND USE**





Applicant:
Paula J. Leick

Owners:
Mark A, Leick et. al.

Case #11380
General Use Rezoning

Legend



Subject Property



2012
AERIAL





PIN: 3322-45-8395-0000
Owner: LEICK MARC A et al
734 BEACHWALK DR.
WINNABOW, NC 28479
Deed Ref: 1136/203
Property Address: 117 HWY
Description:

Sale Price: \$10,000
Sale Date: 1996-05-17
Plat: NOPLAT
Account No: 48614
Township: UNION
Subdivision:
Tax Codes: G01 F27 R40
NBRHD: 9000

Acres: 1
Land Value: \$15,000
Building Value: \$0
Total value: \$15,000
Deferred Value: \$0
Exempt Amount:
PCL Class: R
Heated Sq Feet:

Pender County

