

STAFF REPORT

UDO 2018-11-13 Zoning Map Amendment

PROJECT INFORMATION

File Reference:	UDO 2018-11-13	Application Received:	11/19/2018
Project Name;	N/A	By:	David Parks, Permit Officer
PIN:	01-8916-00-08-2247	Application Fee paid:	\$650.00 CK #1014
Applicant:	Woodrow McPherson Alvin Hess, Jr.	Completeness of Application:	Application is generally complete
Address:	865 & 729 North Highway 343	Documents received upon filing of application or otherwise included:	
Phone:	(252) 771-8011/455-1920	A.	Rezoning Application
Email:		B.	Aerial of portion of property requested to be rezoned.
Agent for Applicant:		C.	Deed
Address:		D.	GIS Aerial, existing zoning, Comprehensive Plan future land use and CAMA Land Use Plan Suitability Maps
Phone:			
Email:			
Current Owner of Record:	Woodrow Gus McPherson, Jr. LE		
Meeting Dates:			
12/19/2018	Planning Board		

PROJECT LOCATION:

Street Address: Property located at 729 North 343.

Location Description: South Mills Township

REQUEST: Request rezone 1 acre to include existing house at 729 North 343 from General Use District (GUD) to Basic Residential (R3-1). **This is a resubmittal of a request for rezoning of the property filed under (UDO 2017-08-07) that was denied by the Board of Commissioners on a 3-2 vote.**

Vicinity Map:



PORTION OF PROPERTY IN QUESTION



Site Data:

Lot size: Entire tract is approximately 73 acres. Area to be rezoned is 1 acre.
Flood Zone: Zone X
Zoning District(s): General Use District (GUD)
Existing Land Uses: Agriculture/Residential

Adjacent Zoning & Uses:

	North	South	East	West
Zoning	General Use District (GUD)	General Use District (GUD)	General Use District (GUD)	General Use District (GUD)
Use & size	Farm/Woodland	Farm/Woodland	Farmland/Housing	Woodland

Proposed Use(s):

The use already exists as residential.

Description of property:

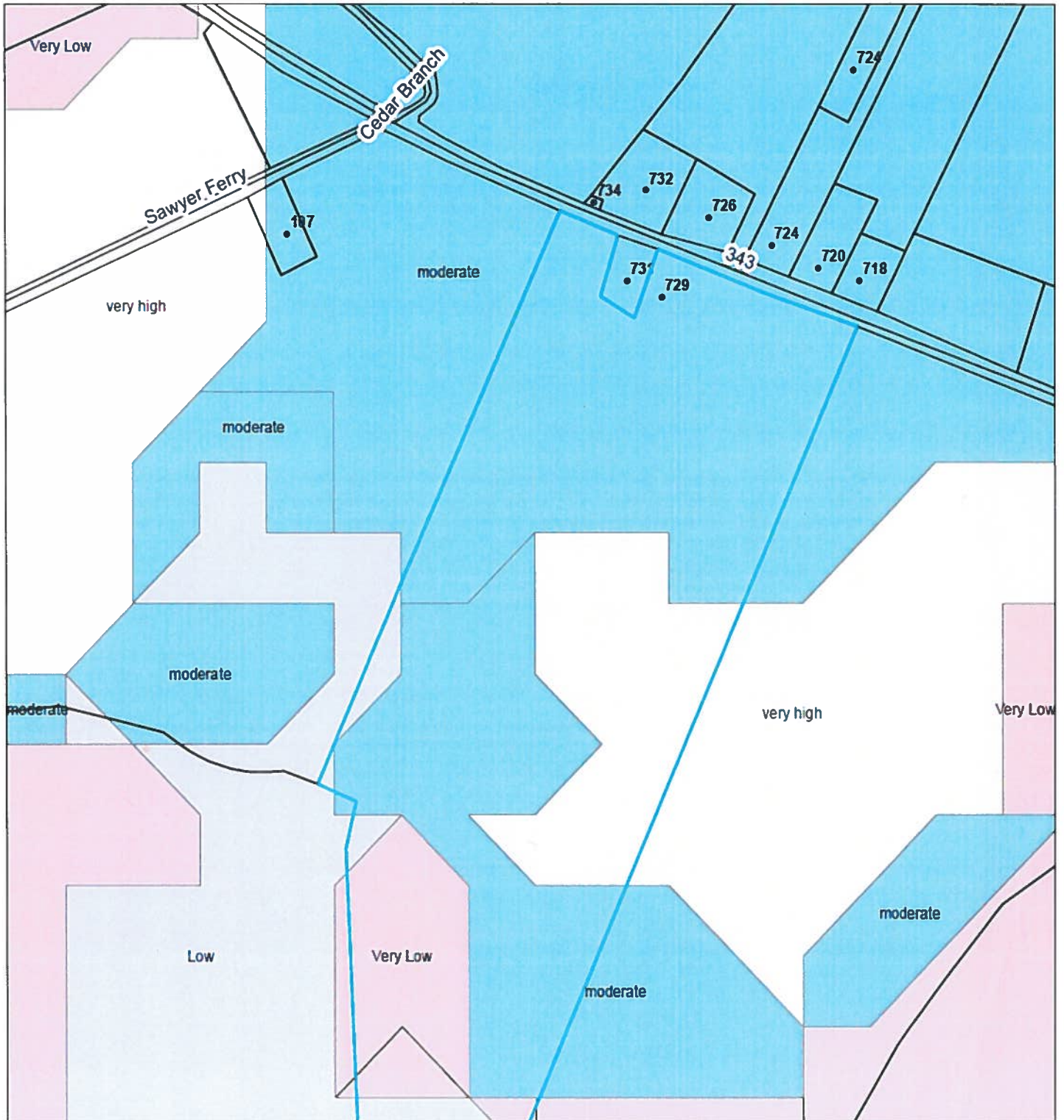
Property abuts Highway 343 North.

ENVIRONMENTAL ASSESSMENT

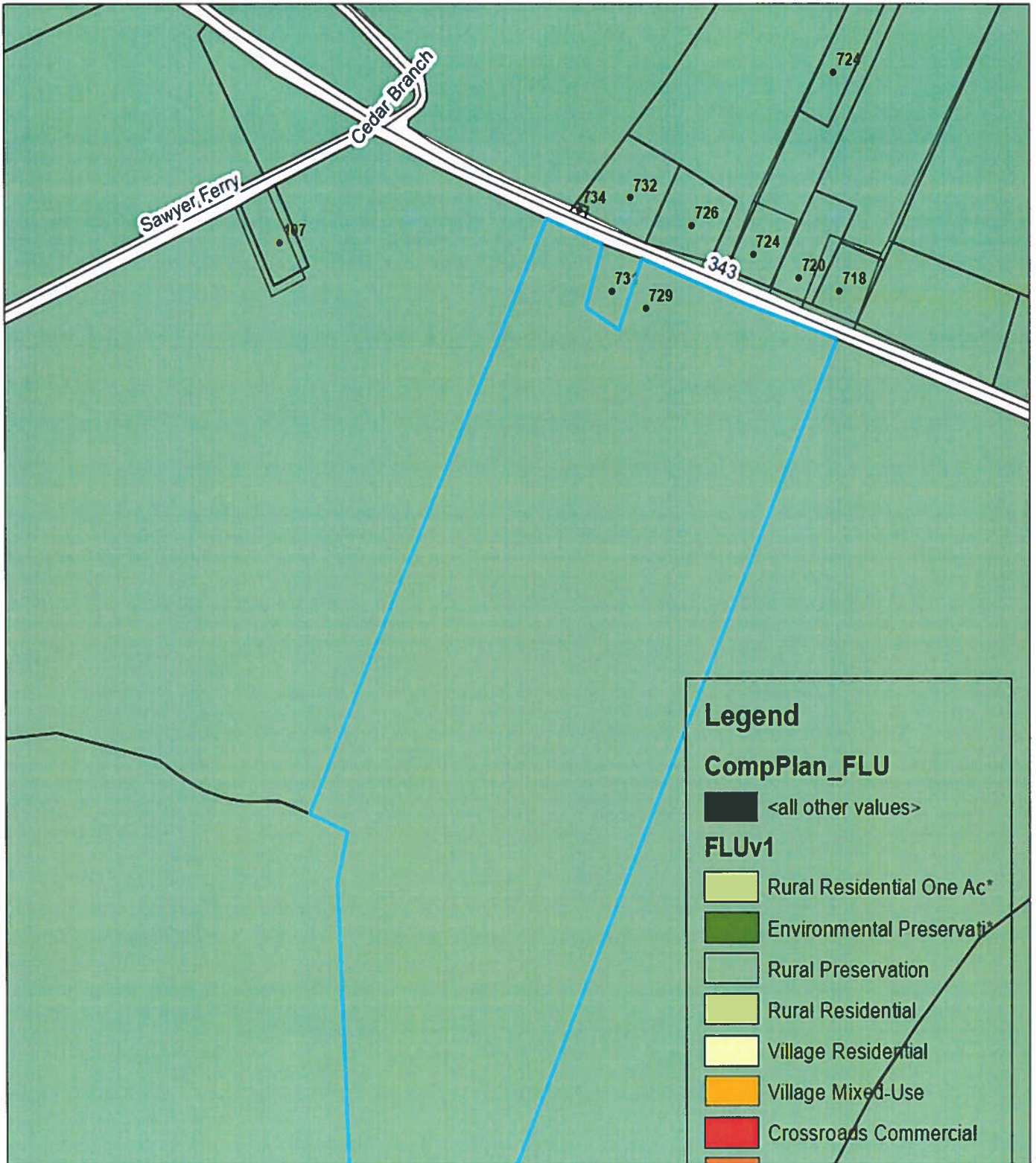
Streams, Creeks, Major Ditches: None.

Distance & description of nearest outfall: Pasquotank River is less than 1/2 mile to the west.

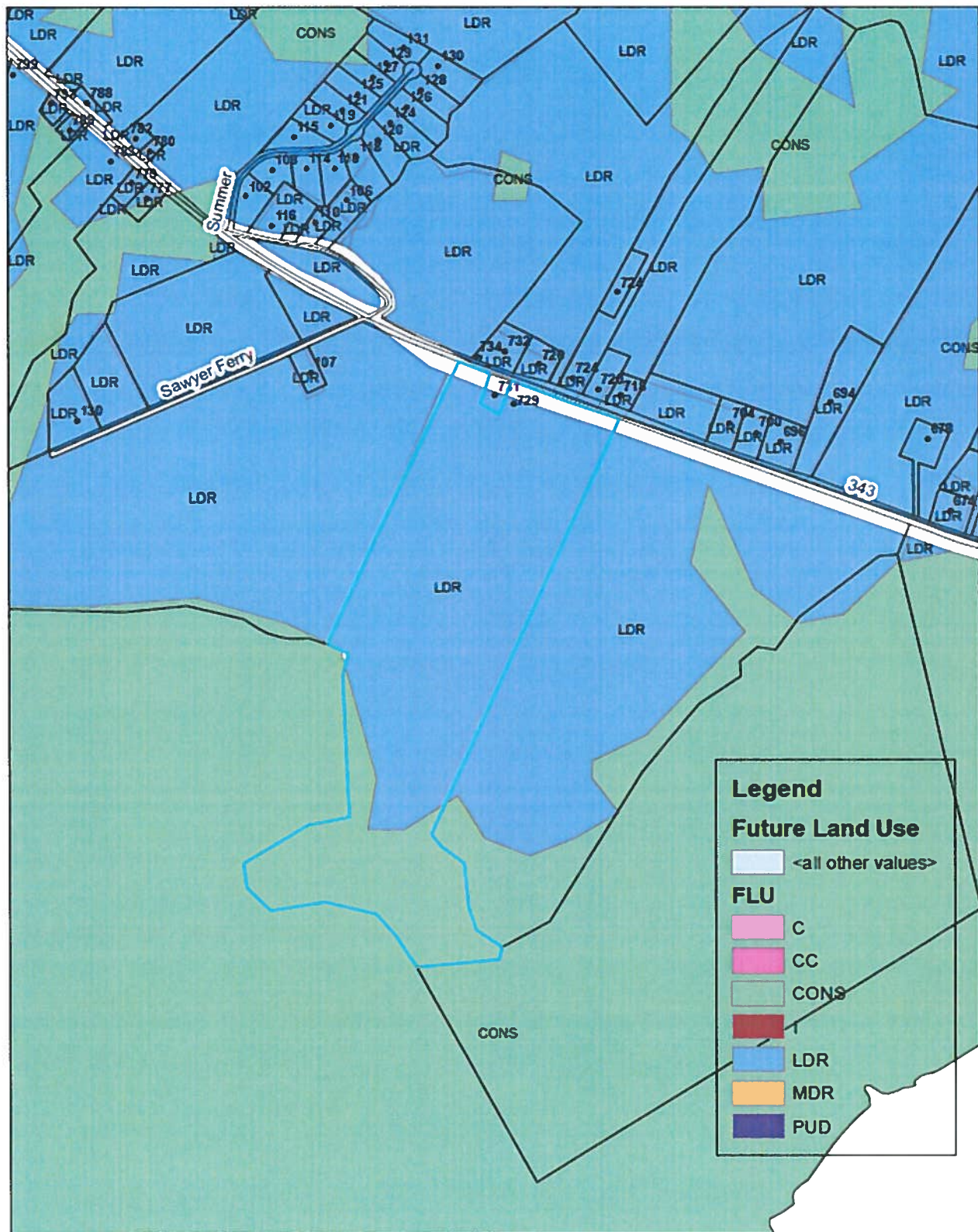
CAMA Land Suitability:



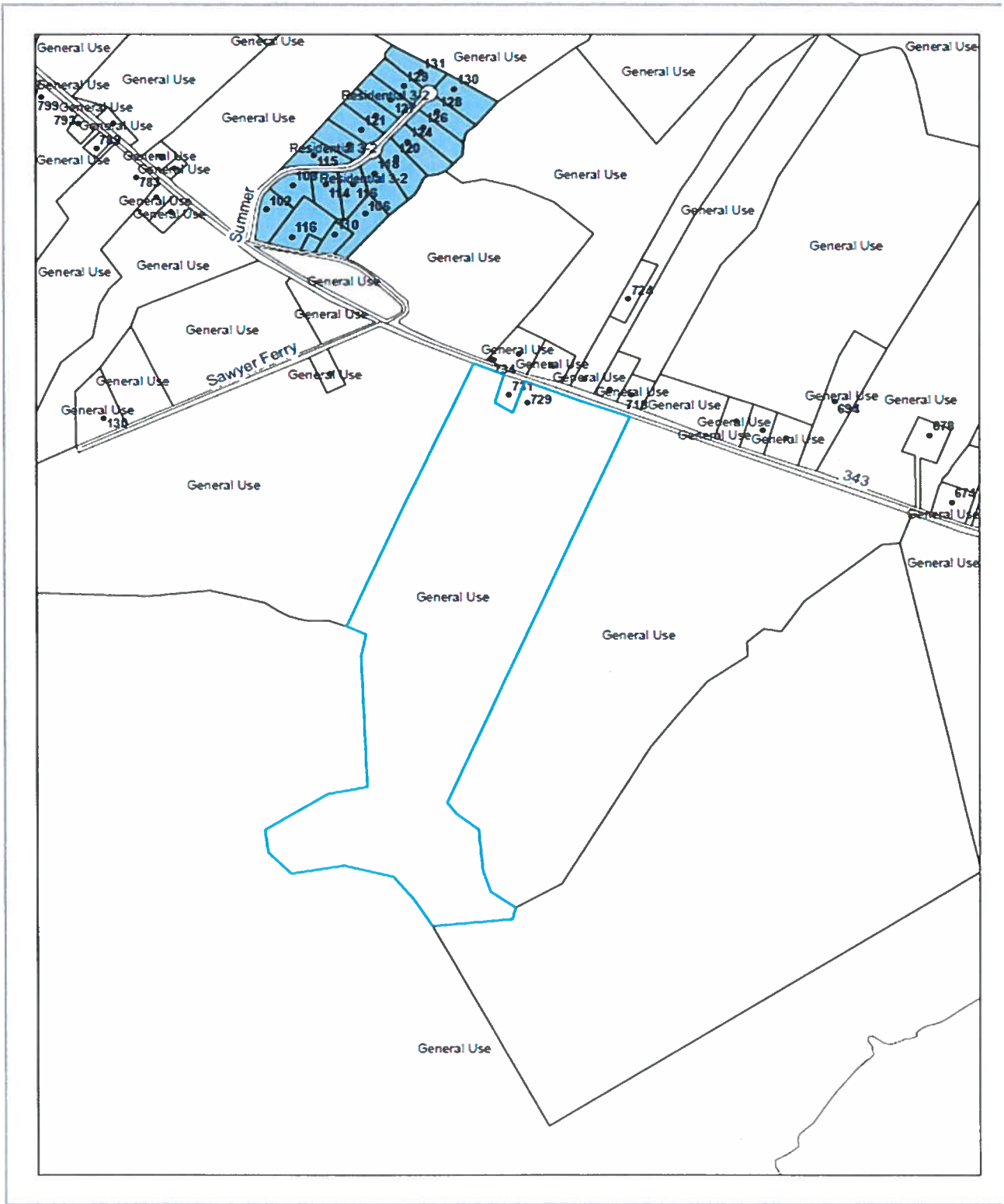
Comprehensive Plan Future Land Use Map



CAMA Future Land Use Map



Zoning Map:



INFRASTRUCTURE & COMMUNITY FACILITIES

Water	Water lines are located adjacent to property along Highway 343.
Sewer	Sewer lines located adjacent to property along Highway 343
Fire District	South Mills Fire District. Property located over 6 miles from Station off Main Street. Property located just over 5 miles from South Camden Fire Station on Sawyers Creek Road
Schools	Impact already exists.
Traffic	Staffs opinion is traffic will not exceed road capacities.

PLANS CONSISTENCY

CAMA Land Use Plan Policies & Objectives:

Consistent **Inconsistent**

The proposed zoning change is inconsistent with the CAMA Land Use Plan which was adopted by the Camden County Board of Commissioners on April 4, 2005 in that this is classified as spot zoning.

PLANS CONSISTENCY – cont.

2035 Comprehensive Plan

Consistent **Inconsistent**

Inconsistent with Comprehensive Plan (Adopted 2012) as Future Land Use Maps reflect land identified as Rural Preservation.

PLANS CONSISTENCY – cont.

Comprehensive Transportation Plan

Consistent Inconsistent

Property abuts Highway 343 North.

Other Plans officially adopted by the Board of Commissioners

N/A

FINDINGS REGARDING ADDITIONAL REQUIREMENTS:

Yes No **Will the proposed zoning change enhance the public health, safety or welfare?**

Reasoning: The proposed zoning change will enhance the welfare of Mr. Alvin Hess, as it will legally allow him the ownership of the house lot that his late Mother Evelyn Williams thought she left him.

Yes No **Is the entire range of permitted uses in the requested classification more appropriate than the range of uses in the existing classification?**

Reasoning: The use as residential for this lot already exists and is permissible in both zoning districts.

For proposals to re-zone to non-residential districts along major arterial roads:

Yes No **Is this an expansion of an adjacent zoning district of the same classification? N/A**

Reasoning:

Yes No **What extraordinary showing of public need or demand is met by this application? N/A**

Reasoning:

Yes No

Will the request , as proposed cause serious noise, odors, light, activity, or unusual disturbances?

Reasoning: All uses allowed in the requested zoning classification should not cause any serious noise, odors, light activity, or unusual disturbances.

Yes No

Does the request impact any CAMA Areas of Environmental Concern?

Reasoning: Property is outside any CAMA Areas of Environmental Concern.

Yes No

Does the county need more land in the zoning class requested?

Reasoning: Staff's opinion is that the requested zoning classification is needed, but not in this area. Opinion is based on the County's Comprehensive Plan.

Yes No

Is there other land in the county that would be more appropriate for the proposed uses?

Reasoning: Proposed use already exists.

Yes No **Will not exceed the county's ability to provide public facilities:**

Schools – Impact already exists.

Fire and Rescue – Minimal impact.

Law Enforcement – Minimal impact.

Parks & Recreation – Minimal impact

Traffic Circulation or Parking – N/A

Other County Facilities – No.

Is This A Small Scale “Spot” Rezoning Request Requiring Evaluation Of Community Benefits?

Yes No

If Yes (regarding small scale spot rezoning) – Applicants Reasoning:

	Personal Benefits/Impact	Community Benefits/Impact
With rezoning	Will allow owner to cut out house out of the farm. See Staff commentary.	None
Without rezoning	See Staff commentary.	No Change.

STAFF COMMENTARY:

In 2015 staff talked to then the current property owner (Mrs. Williams) and her attorney (Mr. Mullen) about information on subdividing the house out of the farm for her son. I informed her that she could subdivided out an acre of land as a deed of gift from a parent to a child and if she went through the regular minor subdivision process and the current zoning on property (GUD) minimum lot size would be 5 acres.

Prior to her passing she sold to Mr. Gus McPherson, Jr. what she believed was everything but the house on one acre. Her attorney (Mr. Mullen) drew up the deed (attached) which created an illegal subdivision as he gave a description of the house lot containing +/- one acre of land as being exempt. Deed was recorded in the Registry of Deeds. There was never any survey recorded subdividing that one acre or deed transferring the property.

It is staffs opinion that since the survey/deed for the house lot was never drawn up and recorded that the current owner Mr. Gus McPherson owns the house and lot. Mr. McPherson wants to get this error corrected as Mrs. Williams' son lives in the house and should be the rightful owner.

2016, 2017, 2018 taxes owed on house lot approximately \$3,386.03.

STAFF RECOMMENDATION: Though this would definitely be spot zoning and not consistent with the Comprehensive Plan or CAMA Land Use Plan staff recommends approval of this Zoning Map Amendment as the situation was created at no fault of the previous/current property owner and it is in the best interest of the public as it will allow Mr. Elvin Hess to legally obtain the land and house his mother intended to give him at her passing.

Zoning Change Application
County of Camden, North Carolina

A rezoning may be obtained pursuant to Article 151.580 of Unified Development Ordinance (UDO) of Camden County and upon approval by the Board of Commissioners after a recommendation from the Planning Board.

Please consult the Planning Office (1-252-338-1919) with any questions about your application.

PLEASE PRINT OR TYPE

Please Do Not Write in this Box	
PIN:	<u>01-8916-00-08-2247</u>
UDO#	<u>2018 - 11 - 13</u>
Date Received:	<u>11/19/18</u>
Received by:	<u>OP</u>
Zoning District:	<u>G40</u>
Fee Paid:	<u>\$ 650.⁰⁰/₁₀₀</u>

Applicant's Name: ^{WOODROW} ~~OP~~ MCPHERSON / ALVIN HESS JR.

PD CK #
1014

If the Applicant is acting as agent for another person (the "principal"), please give that person's name on the line below and submit a copy of the agency agreement/letter with this Application.

Applicant's Mailing Address: 865 N. 342 & 729 N. 343
Camden, NC 27921

Daytime Phone Number: (252) 771-8011 & 455-1920 (Hess)

Street Address Location of Property: 729 N. 343

General Description of Proposal: Request to rezone 1 ACRE From
General Use District (G40) to Basic Residential (R2-1)

I swear or affirm that the foregoing information and all attachments hereto (now or subsequently provided as part of this application) are true and correct to the best of my knowledge.

Signed: Woodrow McPherson

Dated: 11/19/18

Please include a site plan with this application and any other supporting documentation that the applicant feels would assist the Board of Commissioners and the Planning Board in determining the need for a zoning change.

* Information to be filled out by Planning Department

*Is the Property in a Watershed Protection area? yes

*Flood Zone (from FIRM Map): X *Taxes paid? yes no

Zoning Change Application Questions

The UDO requires the Board to consider to principal issues when considering an application for a zoning change. Please respond to each issue in the space provided below or on a separate sheet.

(A) How will the proposed zoning change enhance the public health, safety or welfare? (Article 151.585)

(B) Is the entire range of permitted uses in the requested classification more appropriate than the range of uses in the existing classification? (Article 151.585)

(C) For proposals to re-zone to non-residential districts along major arterial roads (Article 151.586):

(1) Is this an expansion of an adjacent zoning district of the same classification?

(2) What extraordinary showing of public need or demand is met by this application?



Doc ID: 000623020003 Type: CRP
 Recorded: 05/29/2015 at 02:23:20 PM
 Fee Amt: \$206.00 Page 1 of 3
 Revenue Tax: \$180.00
 Camden, NC
 Tammie Krauss Register of Deeds
 BK **335** PG **896-898**

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax:

Parcel Identifier No. 018916000822470000 Verified by Camden County on the 29 day of May, 2015
 By: [Signature] 141-16 \$90,000.00 / \$900.00 pd. BJA no delinquent tax - 5-29-15-15

Mail/Box to: Gus Woodrow McPherson, Jr., 865 N Hwy 343 Camden, NC 27921

This instrument was prepared by: H. T. Mullen, Jr., Attorney at Law

Brief description for the Index: _____

THIS DEED made this 14th day of May, 2015 by and between

GRANTOR
 Evelyn Elizabeth Williams, widowed

GRANTEE
 Gus Woodrow McPherson, Jr., a life estate
 and vested remainder to Scott Berry McPherson
 Joseph Edwin McPherson
 865 N Hwy 343 Camden, NC 27921

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 the City of _____, _____ South Mills _____ Township, _____ Camden _____ County, North Carolina and more particularly described as follows:
 Please see attached Exhibit A.

All or a portion of the property herein conveyed () includes or () does not include the primary residence of a Grantor. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds. The property hereinabove described was acquired by Grantor by instrument recorded in Book 78 page 760.

A map showing the above described property is recorded in Plat Book _____ page _____.

EXHIBIT A

Beginning at a point, said point being presently designated by a pin, same being located on the Western right of way of NC Hwy 343 which has a 100 foot right-of-way at a point said point being 1.2 miles to the junction of NC Road #1208 and from said point of beginning thence continuing along the center of a ditch South 33° West 2650 feet to a point, thence South 18° 30" West to a point, thence South 43° West 152 feet to a point, thence South 12° West 395 feet to a point, thence South 18° East 138 feet to a point, thence South 45° East 251 feet to a point, thence South 55° 45" East 72 feet to a point, thence South 80° 30" West 184 feet to a point, thence South 89° West 128 feet to a point, thence North 55° 30" West 89.0 feet to a point, thence North 2° 30" West 177 feet to a point, thence North 21° West 139 feet to a point, thence North 51° West 121 feet to a point, thence North 81° West 182 feet to a point, thence North 73° 30" West 130.5 feet to a point, thence North 84.5° West 249.5 feet to a point, thence North 49° West 125 feet to a point, thence North 0° 30" East 162 feet to a point, thence North 61° 30" East 336 feet to a point, thence North 71° East 200 feet to a point, thence North 85° East 142 feet to a point, said point being designated by a chopped Maple and same is located on the edge of an Island, thence North 11° 30" East 434 feet to a point, thence North 0° 30" East 387 feet to a point, thence North 11° East 215.5 feet to a point, said point being designated by a chopped Beach and Gum, thence North 57° West 97 feet to a point, thence North 33° East 1776.6 feet to a point, said point being located on the Western right-of-way of NC Highway # 343, thence continuing along NC Highway #343 South 60° 31" East 997 feet to a point, being the said point and place of the beginning.

There is excepted from the above described tract or parcel that certain lot containing 1 acre, +/-, as described in Cabinet 3 Slide 71A of the Camden County Public Registry, said property being presently owned by Sharon G. Camillucci.

- * — There is also excepted from the above described tract or parcel the Grantors House and Lot which is located immediately South of the above designated parcel and consist of 1 acre, +/- . Both of these houses and lots each consisting of 1 acre, +/-, and are excepted from the conveyance of the lands hereinabove described.

The above described tract or parcel is described by that certain map or plat, same having been prepared by Henry Cunningham, Registered Surveyor, on the 17th of May, 1972 and the said plat is referred to as "Lands of Rebecca Williams, South Mills Township" the aforesaid map or plat, with the exception of the two 1 acre, +/- lots, is by reference incorporated herein.

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 is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

(Entity Name)

Evelyn Elizabeth Williams
Evelyn Elizabeth Williams, widowed

By: _____
Title: _____

(SEAL)

By: _____
Title: _____

(SEAL)

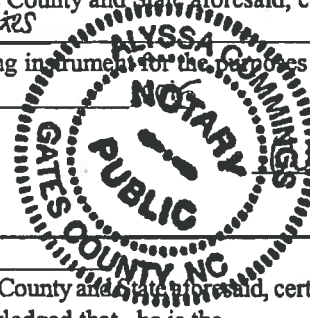
By: _____
Title: _____

(SEAL)

State of North Carolina - County of Pasquotank

I, the undersigned Notary Public of the County and State aforesaid, certify that Evelyn Elizabeth Williams, widowed personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 14th day of May

My Commission Expires: 3/31/2020



Alyssa Cummings
Notary Public

State of North Carolina - County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he is the _____ of _____, a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this _____ day of _____, 20__.

My Commission Expires: _____

Notary Public

State of North Carolina - County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____

Witness my hand and Notarial stamp or seal, this _____ day of _____, 20__.

My Commission Expires: _____

Notary Public

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

Filed in Camden County, NC
 By *Henry C. Cunningham*
 Register of Deeds

Plot Cab 3 Slide 71A

The residual parcel meets or exceeds the minimum lot size as specified within the Camden Co. Unified Development Ordinance. Residual parcel Acres.

I, Henry Cunningham, professional surveyor do certify that this map was drawn from an actual survey by me, that this map was drawn in accordance with GS 47-30 F II and that this map shows the land in db. 78 p. 760 in the Camden County public registry. That the error of closure is 0' 20.000".

The error of closure was computed by DMD Witness my original signature, registration number and seal this 19 day of April 2000

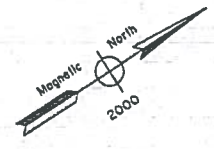
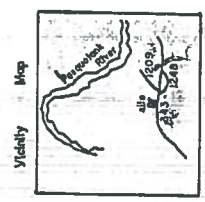


Henry Cunningham
 L-13358
 1505 Edgewood Drive
 Elizabeth City, NC 27903

State of NORTH CAROLINA
 County of Currituck
 I, *Henry C. Cunningham*, Review officer of Camden County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer *Henry C. Cunningham*
 Date: 5-1-2000

Note: This lot is in Flood Hazard area C according to FEMA map 370042 D150 B December 4, 1985



Filed & recorded in office of Register of Deeds Camden Co., Camden NC at 10:57 AM on May 2nd, 2000 in Plot Cab 3, Slide 71A

Henry C. Cunningham
 Register of Deeds

CERTIFICATE OF OWNERSHIP AND REDEDICATION
 I hereby certify that the owner of the property described hereon, which property is located within the subdivision jurisdiction of Camden County, NC, has hereby adopted this plat of subdivision and dedication of public streets, and I have no objection to the same and assents, except to the specifically indicated as private and that I will maintain all such public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such use is approved by the appropriate public authority in the public interest.

Date: 4/24/2000
 Owner: *James Howard Williams*
 James Howard Williams
 729 N. C. 343
 South Mills N.C.
 335-3609

STATE of North Carolina
 County of Pasquotank
 I, a Notary Public of Pasquotank County, North Carolina do hereby certify that James Howard Williams personally appeared before me this date and acknowledged the due execution of the foregoing certificate.
 Witness my hand and official seal this 24 day of April 2000

Notary Public
Henry C. Cunningham
 My commission expires October 20, 2002

The foregoing certificate of Henry C. Cunningham a Notary Public of Pasquotank County, North Carolina is certified to be correct. This instrument was presented for recording on and recorded in Plot Cabinet Slide

Register of Deeds

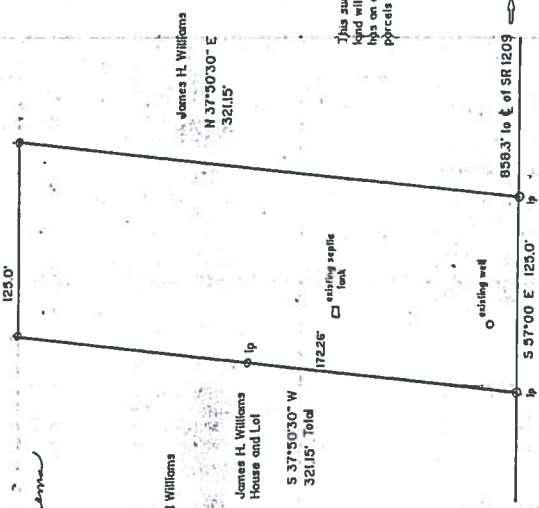
NC 343 100' R/W

Certificate of Approval
 I hereby certify that the minor subdivision shown on this plat does not involve the subdivision of new public streets or any change in existing public streets, that the subdivision complies with the provisions of the Unified Development Ordinance and that therefore this plat has been approved by the Camden County Administrator subject to its being recorded in the office of the Camden County Register of Deeds within thirty (30) days of the date shown, below

James Howard Williams
 Administrator

The developer is required to install all water lines and related improvements prior to recording the sale gift or transfer of any lot within the subdivision

Date: 5-1-2000



This survey creates a subdivision of land within the area of a county that has an ordinance that regulates parcels of land.

Minor Subdivision
 James Howard Williams to
 Eugene Thomas Evans and
 Kelly J. Evans
 729 North N.C. 343
 South Mills Township
 Camden County N.C.
 Date: April 24, 2000
 Scale: 1" = 50'

