

**REQUEST FOR BOARD ACTION**

**ITEM NO.** 16.

**DATE OF REQUEST:** January 7, 2009

**REQUESTED BY:** Planning Staff

**SHORT TITLE:** Resolution to approve a Special Use Permit to temporarily store and collect scrap metal for processing.

**BACKGROUND:** The applicant is requesting approval for the operation of a home based scrap metal processing facility. The request was previously denied by the Board in March 2008, since; the applicant has revised the project scope and has submitted evidence supporting his case.

**SPECIFIC ACTION REQUESTED:** To approve a Special Use Permit for the collection and storage of scrap metal.

**PLANNING STAFF REPORT**  
**Special Use Permit**

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**SUMMARY:**

**Hearing Date:** January 21, 2009

**Case Number:** 09-01-21-01

**Applicant:** James R. Faircloth

**Property Owner:** Same

**Land Use Proposed:** The applicant is proposing to temporarily store and collect scrap metal for processing.

**Property Record Number and Location:** The property is identified by record number 2279-54-3549-0000 and is located at 16222 U.S. Hwy 421 N., Burgaw, NC.

**Zoning District of Property:** The property is zoned RA, Rural Agricultural District, and Salvage yards, Junkyards, and Scrap Processing is permitted via Special Use Permit.

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**PROJECT HISTORY:**

On March 17, 2008, the applicant, Mr. James Faircloth, was denied a Special Use Permit for the operation of a scrap processing facility based on the findings that there would be loud and piercing noise generated, traffic concerns due to the heavy trucks would cause a safety issue for the community, and that the buffers would be inadequate to prevent sight pollution inconsistent with the rural residential nature of the community and adjoining property owners. The applicant has since made some revisions concerning the operation of the processing facility to address the concerns of the previous denial and the concerns of the community.

**PROJECT DESCRIPTION:**

The applicant is requesting approval for the operation of a home based scrap metal processing facility. The proposed project is located on 16.17 acres, which it is indicated by the site plan submitted, that the permitted area designated for the processing activities would encompass approximately 0.81 acres of cleared working area. Currently, there is a single-family dwelling in which the applicant resides, located on the south side of the property. As stated in the applicant's narrative, the only employees for this operation would be the residents at the project location. Large collection bins will be located on the working site for collection and sorting of scrap metals (aluminum, copper, steel, etc.). When these bins are full, the applicant will place them on a truck and haul them away.

Access will be provided to the site via US Hwy 421, and according to the applicant's narrative, truck traffic will be limited to no more than two to three (2-3) trips per day. This differs from the original Special Use Permit submitted as that the applicant will collect the scrap metal and bring it back to the project site instead of deliveries being made to the site, this should reduce the number of trips needed for the operation. The hours of operation are proposed to be 8:00 a.m. to 6:30 p.m., Monday through Friday, and 8:30 a.m. to 1:00 p.m., Saturdays.

It has been stated through the applicant's narrative, that the buffers surrounding the work site have been increased and improved and the Special Use Permit "area" has been decreased. Also, due to the original findings, the applicant has supplemented his submission with a noise study, done by Spangler Environmental, Inc. (attached). Given that the applicant is not going to be receiving any metal for processing from outside parties, the traffic generated from this operation has been reduced. The applicant has submitted evidence in the form of aerial photography to show the access conditions and affecting traffic.

**EVALUATION:**

- A) Public Notifications:** Advertisements for the proposal have been placed in the Topsail Voice and Pender Post. Adjacent property owners were notified by first class mail. Special Use Permit signs were posted on or near the proposed site.
- B) Basis for Granting SUP:** See attachment A for approval procedures (15.3 of Zoning Ordinance) and revocation procedures (15.4b of Zoning Ordinance).
- C) Zoning Ordinance Compliance:** This property is zoned RA, Rural Agricultural District, and *Salvage Yard, Junkyards, Scrap Processing* are permitted via Special Use Permit.
- D) 2005 Land Use Plan Compliance:** This property is classified as Rural Area. *The Pender County Future Land Use Plan* describes Rural Area Rural Area provides for very low-density residential uses, home-based businesses, other businesses traditionally associated with rural farm areas and extraction activities. The northwest corner of the property is classified as Conservation Area I (See attached CAMA Land Use map).
- E) Existing Land Use in Area:** The property is in a rural area. There is a very low net residential pattern in this area. There are three (3) single-family homes within a five hundred foot (500') radius of the applicant's property.
- F) Site Access Conditions:** The property has direct access to US Highway 421 for ingress and egress. A change of use for this property would require appropriate NCDOT permits.
- G) Conditions To Consider In Issuing A Revision of the Special Use Permit For This Project:**
1. Unless approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void, if a final zoning permit has not been issued for the project within 12 months.
  2. The following shall be submitted prior to issuance of the zoning permit as contained in the Commercial Site Plan Review Standards:
    - a. Certification of a drainage plan by licensed professional on a form provided by the County.
    - b. Appropriate permits issued by the North Carolina Department of Transportation for site access.
    - c. Appropriate permits and inspections from the Pender County Environmental Health Department.
  3. The project shall comply with all requirements of the Commercial Development Standards and Site Plan Review, Section 9.14 of the Pender County Ordinance. This will include parking and landscaping requirements that will be in compliance with Sections 13 and 14 of the Pender County Zoning Ordinance. (Buffers to be consistent with §14.7 G. Buffers Required for the Industrial Districts and Industrial Uses in the Rural Districts.)
  4. A separate Permit must be obtained for any proposed signs. Signs shall be in accordance with Section 16 of the Pender County Zoning Ordinance.
  5. Hours of operation, all seasons:
    - a. 8:30 a.m. – 6:30 p.m., Monday through Friday, and 8:30 a.m. – 1:00 p.m., Saturdays.
  6. Any flood or spotlights shall be oriented away from the street. Such lights shall also be oriented away from adjacent properties or shielded to prevent direct light from shining on such properties. This provision does not apply to normal area lights (non-directional).
  7. No junk, debris, trash or inoperable vehicles, recycled or salvaged materials shall be stored on the site outside an approved bin.
  8. All access areas leading into the development shall be constructed and maintained to NCDOT secondary road standards.
  9. 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.
  10. The project shall be developed and maintained in accord with the applicant's final revised site plan as approved by the Zoning Administrator, the Zoning Ordinance and the conditions contained in this permit.

ITEM NO: \_\_\_\_\_

**RESOLUTION: NOW, THEREFORE, BE IT RESOLVED**, that on January 21, 2009 the Pender County Board of Commissioners (approved, modified, denied) a special use permit for the operation of a scrap processing facility, as described herein, and Jimmy T. Tate, Chairman to the Board, is authorized to execute the order implementing this resolution and provide notice to the applicant of the action taken herein.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS \_\_\_\_\_

YEA VOTES: Tate \_\_\_\_ Brown \_\_\_\_ Blanchard \_\_\_\_ Rivenbark \_\_\_\_ Williams \_\_\_\_

\_\_\_\_\_  
**Jimmy T. Tate,**  
**Chairman**

1/21/2009  
**Date**

\_\_\_\_\_  
**ATTEST**

1/21/2009  
**Date**

# PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



## SPECIAL USE PERMIT APPLICATION

Date 11/14/2008

Application Fee \$ 200

### I. PROJECT INFORMATION:

Parcel ID #: 2279-54-3549-0000

Total Property Acreage: 16.17

Zoning District: RA

Acreage to be Disturbed: None initially

Property Location/Address: West side of U.S. 421, 16222 U.S. 421 North, Burgaw, NC 28425

Describe activities to be undertaken on project site: Temporary storage and collection of scrap metal

### II. REQUIREMENTS FOR ISSUING A SPECIAL USE PERMIT:

1. The use requested is listed among the special uses in the district for which the 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 land use plan;
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.

Any information the applicant wishes to submit to assist in making the above findings may be included as part of the Project Narrative or as a supplement labeled "Support Information-Required Findings" (max. 1 page).

*\*Please refer to Special Use Application Checklist for further requirements.*

### III. SIGNATURE OF OWNER & APPLICANT:

James R. Faircloth  
James R. Faircloth

Donna L. Faircloth  
Donna L. Faircloth

*(If owner is different from applicant, both signatures are required)*

COMMUNITYDEVELOPMENT@PENDER-COUNTY.COM • 805 S. WALKER STREET, BURGAW, NC  
PHONE: 910.259.1202 FAX: 910.259.1295

RECEIVED

NOV 14 2008

PENDER PLANNING DEPT.

JAMES R. FAIRCLOTH and wife, DONNA L. FAIRCLOTH  
SPECIAL USE PERMIT  
PROJECT NARRATIVE

**History of the project:** The applicants have heretofore filed for a special use permit. A hearing on this was held before the County Commissioners on 17 March 2008. At that hearing the application was denied on the following grounds:

1. The proposed SUP would result in loud and piercing noise inconsistent with the rural and residential neighborhood.
2. The use of heavy vehicles on the roadway given the limited sight distance would create a risk to the safety of the community.
3. The proposed buffers would be inadequate to prevent sight pollution inconsistent with the rural residential nature of the community and immediate neighbors of the property.

This application differs from the original application in that:

1. The buffers surrounding the work site have been increased and improved. The Special Use permitted area has been decreased. Aerial photographs attached to the application show that the proposed site is completely surrounded by heavily wooded areas that totally prevent the site from being visible from the lands of adjoining landowners or from US 421.
2. Noise generated by activities at the site have been diminished to the point that they are neither loud nor piercing. In fact a noise study attached to the application shows that the noise level generated by the operation is less than normal traffic noise.
3. Proposed traffic to and from the site has been decreased. No deliveries by other individuals will be made to the site. The only truck traffic at the site will be by the applicant himself and will be limited to no more than two or three trips per day. In addition, aerial photographs attached to the application show that the entrance to the site does not have limited sight distance and is not located on a hairpin curve, as the evidence at the previous hearing indicated. In fact, although there is a curve on the north approach to the entrance to the site, that curve is so slight as not to have any solid yellow lines which prohibit passing for southbound traffic. In other words, the sight distance for 0.7 mile in a southerly direction north of the entrance allows vehicles to pass overtaken vehicles with a full view of the roadway ahead. Visibility exists for more than a mile in either direction from the Faircloth driveway.

With the specific objections raised at the previous hearing addressed by the applicant, the applicant believes that the application now should be acceptable.

**Project Location and Access:** The project is located on the west side of US 421 north of NC 53 between Ward's Corner and A. B. Grocery. The property has direct access to US 421.

**Project Height/Building Background and Info:** Current zoning: RA. Site acreage: 16.17 acres (see zoning and property map attached.) The site contains the principal residence of the applicants. The total site contains approximately 16.17 acres and is tree lined on all sides (see aerial of site attached). The site to be permitted contains approximately two and one-half (2 ½ ) acres.

**Project Description:** The applicants propose to use a portion of the site for the temporary storage and collection of scrap metal. Large bins will be located on the site in which collected scrap metal will be sorted and placed in each bin, according to the type of metal. When a sufficient amount of metal has accumulated, it will be loaded into smaller bins on the applicant's truck and taken to the site where scrap metal is purchased.

**Construction Activities on the site:** The project will require no permanent construction on the site.

**Hours of operation:** 8:00 a.m. to 6:30 p.m., Monday through Friday and 8:30 a.m. to 1:00 p.m. on Saturdays.

**Site Utilities:** No utilities *per se* are required for the operation of the project. The home of the applicant is serviced by a well and septic system.

**State and Federal permits required:** None.

**Description of impact on the community:** There should be no significant impact or effect on the community. The operation of the project entails no significant noise, no environmental pollution, and no visual pollution. The area where the project is to be located will be entirely buffered by extensive vegetation on all sides. The applicants are the only employees involved in the operation.

**Zoning compliance with Section 15.3 "Procedures for Reviewing Special Use Permits:"** Section 15.3 of the Ordinance requires that findings shall be made that eight requirements have been fulfilled prior to approval of a special use permit. Each requirement has been reviewed and it has been found that the proposal complies with this section of the Zoning Ordinance. The eight requirements and a response indicating fulfillment and compliance are:

- A. **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:**

**Response indicating compliance:** Salvage yards, junk yards, scrap processing is a permitted use by special use permit in the RA district. This project would fall into that category.

- B. **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:**

**Response indicating compliance:** The site has direct access to US 421 and will not require trucks to pass through any residential area to reach the project site. The site is insulated and isolated from surrounding properties by a vegetative buffer, and is not

visible from US 421. Unless one travels up the access road to the site, one will not know that the project is there.

**C. The proposed use will not constitute a nuisance or hazard:**

**Response indicating compliance:** It is not anticipated that the project will create a nuisance or hazard. The project is not visible from any adjoining property or from US 421 and the traffic to and from the project site will be no more than twice or three times daily. It will not exceed the normal traffic to and from the residence of the applicants. Minimal noise will be caused by the operation at the project site.

**D. 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:**

**Response indicating compliance:** The Pender County Land Use and Future Land Use Plan map have been reviewed and found to be consistent with this project. The project is located in an Urban Growth Area. The Land Use Plan and the description of Urban Growth Areas calls "for a mixture of more intensive commercial and industrial or job creating uses in a range of residential land uses and housing types." The project is consistent with the Land Use Plan and complements its policies and the Future Land Use Plan map classifications.

**E. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided:**

**Response indicating compliance:** No utilities or sanitation facilities are needed for the project. There is an adequate access road from US 421 to the project. In close proximity to the project is the personal residence of the applicant, and that residence has an existing well and septic tank that are functioning properly. There has been no history or evidence of drainage or flooding problems on the site, and impervious surfaces will be minimally increased. Adequate facilities are available at the site.

**F. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion of the public roads:**

**Response indicating compliance:** An existing driveway provides access. NCDOT will be contacted to determine the necessity of any additional permits.

**G. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located:**

**Response indicating compliance:** No new building construction will be done on the site and the special use permit provisions are all that is known for compliance with the Ordinance requirements. An application for a zoning permit will be filed upon approval of the special use permit.

**H. 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:**

**Response indicating compliance:** The site is of ample size to accommodate the project and to allow for adequate screening and insulation from adjoining properties and US 421. The applicants themselves live on the site and are generally available to avoid any conceivable disturbances or other undesirable activities.

**Applicants' background information:** The applicants are long-time residents of Pender County. The applicants have been engaged in the collection of scrap metal on a part-time basis for some time. However, the collection of the scrap metal on a site where it can be separated prior to delivery to the purchase site provides greater efficiency and economy which is necessary to make the enterprise a profitable venture. It is anticipated that this operation may serve Pender County by collection of scrap metal at the Pender County landfill sites, to avoid having these metals unnecessarily dumped into the landfills. No items containing contaminants, such as batteries, will be collected.

F:\CORE\TERRA\Faircloth-narrative 11-12



# SPANGLER ENVIRONMENTAL, INC.

Environmental Planning Environmental Permitting Environmental Consulting Environmental Construction Management Expert Testimony

October 23, 2008

Mr. Richard vonBiberstein, Esq.  
Biberstein & Nunalee, LLP  
PO Box 428  
Burgaw, North Carolina 28425

RE: Faircloth Metal Facility, Highway 421  
Evaluation of Noise at Certain Receptors

Mr. v.Biberstein:

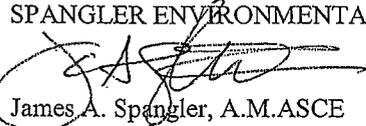
Sound evaluations were undertaken by Spangler Environmental, Inc. during the week of October 6, 2008 for the purpose of identifying the sound levels of equipment during operation at the subject facility, and relative sound levels of traffic on adjacent Highway 421, at specific receptor locations. Sound measurements were taken at various times throughout the day and evening, and at multiple receptor locations. A memorandum of the field procedures and resultant raw data is attached as Exhibit 1.

Results of the comparative field analyses indicate that adjacent property receptors experience significantly less sound from the operation of heavy equipment at the Faircloth facility (mean decibel range of 58 to 62 dB-A) when compared to traffic noise during peak traffic (mean range 82-84 dB-A) and non-peak traffic (mean range 79-82 dB-A) periods. This is explained in part by the observed topographic features of the surrounding landscape, which reveal that the subject facility is located at a lower elevation than the receptors allowing for ground absorption and reflection of sound generated by the facility operations before reaching the receptor locations, and also by the absorptive and reflective qualities of the significantly dense vegetation that surrounds the facility and buffers the receptors. These conditions do not exist relative to highway sound generation and reception.

Furthermore, because sound quantity is not additive, the lower decibel sound received at the receptors from the Faircloth operation is inaudible during periods of highway traffic use because the higher traffic-generated sound overcomes, or "masks" the Faircloth-generated sound.

Please feel free to contact me should you wish to discuss these data and conclusions further.

Sincerely,  
SPANGLER ENVIRONMENTAL, INC.

  
James A. Spangler, A.M.ASCE  
President  
Certified Environmental Inspector #6882

Attachment: Exhibit 1—October 16, 2008 Memorandum

4338 Bland Road Raleigh, N.C. 27609 phone 919-875-4288 fax 919-875-4287

3961-B Market Street Wilmington, N.C. 28403 phone 910-343-9375 fax 910-343-8351

1-866-SPANGLER www.spanglerenvironmental.com



# SPANGLER ENVIRONMENTAL, INC.

Land Planning • Permitting • Environmental Consulting • Construction Management • Expert Testimony

Memorandum

October 16, 2008

**Exhibit 1**

To: Jim Spangler, President  
Spangler Environmental, Inc. *ASB red 10/16/08*

Fr: Chad Broadway, Environmental Scientist *CB*

RE: Faircloth Noise Study

Jim:

Spangler Environmental (SEI) personnel conducted a study on and adjacent to the property owned by James Faircloth to measure sound generated from his facility and the adjacent highway. Using a sound level meter (Radio Shack *Realistic Sound Level Meter*, Cat. No. 33-2050), SEI conducted several tests throughout a two day period to measure "A" weighted sound generated from US Highway 421 during morning peak traffic (7-9am), afternoon peak traffic (4-6pm) and off-peak traffic. To ensure unbiased test results, SEI used a random number generator to determine at what frequency measurements were made on passing vehicles.

Additionally, SEI conducted tests at 3 different locations on the outer portions of Mr. Faircloth's property during his times of operation. SEI attempted to take these measurements from receptor points on neighboring properties, but SEI personnel could not gain approval to enter these properties. These measurements were taken during peak operations of the subject facility for a duration of 15 minutes, with a reading taken once per minute.

SEI has included testing results (Attachment A), a map of sampling locations (Attachment B), a table identifying testing times, durations and locations (Attachment C) and a decibel comparison table (Attachment D). Listed below is a list of tests, approximate locations and approximate number of cars per minute.

4338 Bland Road Raleigh, NC 27609 tel 919-546-0754 fax 919-546-0757

3961-B Market Street Wilmington, N.C. 28403 tel 910-343-9375 fax 910-343-8351 1-866-SPANGLER www.spanglerenvironmental.com



Date: 10/8/08

<u>Test #</u>	<u>Road 1</u> Freq: 4th car	<u>Road 2</u> Freq: 5th car	<u>Road 3</u> Freq: 4th car	<u>Operations 4</u> Freq: 1 test/min	<u>Operations 5</u> Freq: 1 test/min	<u>Operations 6</u> Freq: 1 test/min
1	91	90	88	63	64	58
2	79	77	78	58	65	null
3	89	81	91	61	66	null
4	88	77	101	54	63	60
5	74	83	81	59	58	57
6	81	84	89	62	Null	58
7	83	80	88	64	64	58
8	85	87	77	59	59	null
9	84	83	77	58	62	59
10	89	84	77	59	65	58
11	88	79	84	66	61	60
12	89	79	87	58	58	null
13	87	83	82	63	60	54
14	80	81	79	56	61	null
15	81	81	77	58	64	null
16	76	88	90	<b>59.86666667</b>	<b>62.14285714</b>	<b>58</b>
17	81	80	78			
18	80	80	89			
19	82	84	<b>84.05555556</b>			
20	79	79				
21	76	78				
22	91	84				
23	76	89				
24	89	76				
25	77	92				
26	90	88				
27	76	78				
28	86	<b>82.40740741</b>				
29	89					
30	88					
	<b>83.46666667</b>					
High	91	90	101	66	66	60
Low	74	76	77	54	58	54



Date: 10/9/08

<u>Test #</u>	Road 4 Frequency: 2nd car	Road 5 Frequency: 4th car	Road 6 Frequency: 4th car
1	85	89	75
2	78	74	79
3	91	76	77
4	84	88	89
5	79	79	78
6	77	81	78
7	84	79	74
8	79	87	78
9	78	94	80
10	84	84	85
11	89	77	84
12	76	81	79
13	77	89	77
14	77	79	83
15	84	80	77
16	81	79	84
17	83	74	85
18	85	78	78
19	84	88	76
20	77	78	81
21	79	91	76
22	81	82	83
23	81	79	79
24	79	78	78
25	76	82	86
26	91		76
27	77		77
28	82	81.84	82
29	80		80
30	77		77
31	76		77
32	93		87
33	88		79.84375
34	79		
35	82		
36	76		
37	77		
38	79		
39	80		
40	86		
41	81		
42	83		
43	77		
	81.20930233		
High	91	91	89
Low	76	74	75



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