



REQUEST FOR BOARD ACTION

ITEM NO. 26.

DATE OF MEETING: August 15, 2011

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

SHORT TITLE: Resolution Requesting a Special Use Permit (SUP) for the Operation of Nonmetallic Mineral Mining and Quarrying (NAICS Code 2123).

BACKGROUND: Frank R. Morton, applicant, on behalf of Ernest Grayling Shingleton, owner, is requesting approval of a Special Use Permit (SUP) for the operation of a nonmetallic mineral mine and quarry (NAICS Code 2123). The total area of the mine site is proposed to be ± 8.4 acres with J.A. Drive (± 1.6 acres) serving as the haul road for extracted dirt material. The overall tract is approximately ± 110 acres. The subject property is located at 459 J.A. Drive, Hampstead, NC, and may be identified as Pender County PIN 3284-79-6395-0000. The property is currently zoned RA, Rural Agricultural District.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit for nonmetallic mineral mining and quarrying (NAICS Industry Code 2123).

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that on August 15, 2011 the Pender County Board of Commissioners (approved, modified, denied) a Special Use Permit request for the Operation of Nonmetallic Mineral Mining and Quarrying (NAICS Code 2123), 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: Brown: _____ Tate: _____ Rivenbark: _____ Ward: _____ Williams: _____

George R. Brown, Chairman 8-15-2011
Date

ATTEST 8-15-2011
DATE
Delivered

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: August 15, 2011

Applicant: Frank R. Morton

Property Owner: Ernest Grayling Shingleton

Case Number: SUP 10012

Land Use Proposed: The applicant is requesting the approval of a Special Use Permit (SUP) for the operation of nonmetallic mineral mining and quarrying (NAICS Code 2123).

Property Record Number and Location: The subject property is located at 459 J.A. Drive, Hampstead, NC, and may be identified as Pender County PIN 3284-79-6395-0000.

Zoning District of Property: The property is currently zoned RA, Rural Agricultural District, and uses in the NAICS Sector 2123 are permitted via SUP.

PROJECT DESCRIPTION:

Frank R. Morton, applicant, on behalf of Ernest Grayling Shingleton, owner, is requesting the approval of a Special Use Permit (SUP) for the operation of a dirt mine. The proposed mine site consists of a total disturbed area of approximately 10 acres, which includes ± 8.4 acres of excavation area and ± 1.6 acres to be utilized as a haul road for access to Hoover Road (SR 1569). The entire mine will be located on a ± 110 acre tract of land located at the terminus of J.A. Drive, Hampstead, NC.

According to the applicant's North Carolina Department of Environment and Natural Resources (NCDENR), Land Quality Section, Application for a Mining Permit; the dirt mine will utilize a front-end loader and truck to excavate the proposed site. The pit will be excavated to a maximum depth of 25' below the grade on the site, with an average excavation depth of 20 feet. The proposed excavation area will be divided into two separate sections and will be mined in consecutive phases. It is proposed that the excavation will extend into the water table and the site will require dewatering activities. It is proposed that all dewatering will occur internally and be stored onsite.

The property does contain FEMA Special Flood Hazard Areas (SFHA) as shown on the effective Flood Insurance Rate Map (FIRM) dated February 16, 2007. Portions of the subject property are located in the SFHA "AE Zone" and "A Zone". The "AE Zone" is where the Base Flood Elevation (BFE) has been determined and the SFHA "A Zone" is where the BFE has not been previously determined. The proposed development must complete a flood study delineating BFE's within the "A Zone" as outlined in Section 9.5.3 of the Pender County Unified Development Ordinance.

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO

This appears to be in the territory of the MPO. As such, I have no comment.

Four County Electric Company

No response.

NC DENR Division of Coastal Management

No response.

NC DENR Division of Forestry

No response.

NC DENR Division of Land Resources

No response.

NC DENR Division of Waste Management

No response.

NC DENR Division of Water Quality

DWQ will be on site the week of August 8th; Staff will present the Board with all relevant updated information at the time of the hearing.

NC DOT Division of Highways

NC DOT needs to evaluate the condition of the road between the proposed site and US 17 to ensure it can hold up to the additional truck loads anticipated. NC DOT will need the number of trucks expected from the site (for each day), the projected life of the pit, and the estimated CY of material to be removed. NC DOT will use this information, in conjunction with the pavement evaluation, to determine if strengthening of the exiting roadway will be needed. If it is, these improvements will be a requirement from the Department. This work can be performed thru a standard encroachment agreement. Once NC DOT has received the requested information, we will ask our Pavement Management Unit to schedule the needed testing.

NC DOT Transportation Planning Branch

No response.

NC Office of State Archaeology

No response.

NC Wildlife Resources Commission

No response.

Pender County Building Inspections

No response.

Pender County Emergency Management

No response.

Pender County Environmental Health

No response.

Pender County Fire Marshall

No response.

Pender County Parks and Recreation

No response.

Pender County Public Library

No response.

Pender County Public Utilities

No Comment.

Pender County Schools

We have been approached by parents of South Topsail Elementary who are concerned about the additional traffic flow on Hoover Road. The area around the school is extremely busy during the time school begins and end during school days.

Pender County Sheriff's Department

No comments.

Pender County Soil and Water Conservation District

Soil & Water sees no problem as long as all sediment and erosion issues have been approved by NCDENR. I assume there has been an approved plan. I know there has been some private well issues in this area this year already.

Progress Energy Corporation

No response.

US Army Corps of Engineers

No response.

Wilmington Metropolitan Planning Organization

The WMPO takes no exception to the proposed. The adopted Coastal Pender Collector Street Plan does not appear to offer any specific guidance relevant to this particular request.

EVALUATION:

- A. Public Notifications:** Advertisements for the proposal have been placed in the *Topsail Voice* and *The Pender Post*. Adjacent property owners were notified by first class mail.
- B. Basis for Granting SUP:** See attachment A for approval procedures (§3.10.3-4 of Unified Development Ordinance) and revocation procedures.
- C. Unified Development Ordinance Compliance:** The property is currently zoned RA, Rural Agricultural, and uses defined under NAICS Sector (NAICS Code 2123) nonmetallic mineral mine and quarry are permitted by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance, Article 5.2.3 Table of Permitted Uses.
- D. 2005 CAMA Land Use Plan Compliance:** The subject property contains classifications of Urban Growth and Conservation Area I. The Urban Growth classification is defined as providing for the continued development of areas provided with water and/or sewer services or where the county is actively engaged in planning these community services. The Conservation I classification includes land and water features where there are serious hazards to personal safety or property, where new development would cause serious damage to the values of natural systems, or where new development is not permitted by local state, or federal policy. The proposed project site is located approximately 1,500 ft. north of the centerline of Trumpeter Swamp and approximately 500 ft. from the limits of the AE flood zone.
- E. 2010 Comprehensive Land Use Plan Compliance:** The subject property is currently classified within the Conservation classification due to its proximity to the Holly Shelter Game Lands. The Conservation classifications are areas that are owned in fee simple or have protective easements. These areas represent areas of special significance and unique characteristics that make them worthy of preservation.
- F. Existing Land Use in Area:** The existing land uses in the area are composed of: Holly Shelter Game Lands to the north, east, and west, and very low-density single family residential to the south.
- G. Site Access Conditions:** The project is proposing to utilize existing dirt, private road (J.A. Drive) with direct access to Hoover Road (SR 1569).
- H. 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 project shall comply with all requirements of the Pender County Unified Developed Ordinance.
 3. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.
 4. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit
 5. The project shall be developed and maintained in accord with the conditions contained in this permit.
 6. Prior to the issuance of final zoning approval; a Site Development Plan must be submitted and approved as prescribed the Pender County Unified Development Ordinance.
 7. There shall be no hauling of material or truck traffic along Hoover Road (SR 1569) from the hours of 7:00 am – 8:00 am and 1:30 pm – 2:30 pm, Monday thru Friday to accommodate school traffic from South Topsail Elementary.
 8. No junk, debris, trash, or inoperable vehicles, recycled or salvaged materials shall be stored on the site. All debris shall be removed from the site prior to issuance of a zoning permit.
 9. All other applicable local, state, and federal permits as required.

Attachment A

3.10.3 Procedures for Reviewing Applications

- A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
- B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.
- C. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed.
- D. The Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.
- E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.
- F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.
- G. The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit, the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:
 1. The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;
 2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
 3. The proposed use shall not constitute a nuisance or hazard;
 4. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
 5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
 6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;
 7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and
 8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

3.10.4 General Provisions Concerning Special Use Permits

- B. Revocation - In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Administrator may initiate a notice of violation for the provisions of this ordinance and the conditions of the Special Use Permit not in compliance or the Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified.