



## REQUEST FOR BOARD ACTION

ITEM NO. 16.

**DATE OF MEETING:** March 19, 2012

**REQUESTED BY:** Ashley Frank, Planner II, Planning & Community Development

**SHORT TITLE:** Resolution Requesting Approval of a Major Revision to an Existing Special Use Permit (SUP) for the Operation of a Sand Borrow Pit Mine. The Revision is to Amend an Existing Condition Extending the Term of the Permit.

**BACKGROUND:** Janet Whitehead, applicant and owner, is requesting approval of a major revision to an existing Special Use Permit (SUP) issued February 18, 2002 (SUP 02-02-18-01/10421). The SUP was issued for the construction and operation of a Sand Borrow Pit Mine, conditioned with a ten (10) year expiration date. The requested revision will modify the aforementioned condition to allow for another twenty (20) year term for the SUP. This is the only requested revision to the SUP. The property is currently zoned RA, Rural Agricultural District and may be identified by Pender County PIN 3257-88-8047-0000. The subject property is located at 4324 Shaw Highway, approximately .25 miles north of Lillington Lane. There is one (1) tract associated with this request totaling  $\pm$  103.77 acres. In accordance with Article 3.12.4.H of the Pender County Unified Development Ordinance, major revisions to Special Use Permits must be submitted to the Board of Commissioners.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider the approval of a revision to an existing Special Use Permit for the renewal of an existing mining operation.

**RESOLUTION**

**RESOLUTION: NOW, THEREFORE, BE IT RESOLVED**, that on March 19, 2012 the Pender County Board of Commissioners (approved, modified, denied) resolution requesting approval of a major revision to an existing special use permit (SUP) for the operation of a sand borrow pit mine. The revision is to amend an existing condition extending the term of the permit, as described herein, and 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 \_\_\_ Rivenbark \_\_\_ Tate \_\_\_ Ward \_\_\_ Williams \_\_\_

\_\_\_\_\_  
George R. Brown, Chairman      03/19/2012  
Date

\_\_\_\_\_  
ATTEST      03/19/2012  
Date

## PLANNING STAFF REPORT

### Special Use Permit

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#### SUMMARY:

**Hearing Date:** March 19, 2012

**Applicant:** Janet Whitehead

**Property Owner:** Janet Whitehead

**Case Number:** 10421 R (SUP 02-02-18-01)

**Land Use Proposed:** The applicant is requesting approval of a major revision to an existing Special Use Permit (10421 R /SUP 02-02-18-01) for the construction and operation of a Sand Borrow Pit Mine, conditioned with a ten (10) year expiration date.

**Property Record Number and Location:** The subject property is located at 4324 Shaw Highway, approximately .25 miles north of Lillington Lane and may be identified by Pender County PIN 3257-88-8047-0000.

**Zoning District of Property:** The property is currently zoned RA, Rural Agricultural District and Construction Sand and Gravel Mining (NAICS Industry Code 212312) is permitted in RA, Rural Agricultural District via Special Use Permit. Additionally, the mining facility has been in operation since the approval of the original Special Use Permit (SUP 02-02-18-01) in 2002.

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#### PROJECT HISTORY:

On February 18, 2002 a Special Use Permit was approved by the Pender County Commissioners for the construction operation of a Sand Borrow Pit Mine, to be located at 4324 Shaw Highway, Rocky Point.

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#### PROJECT DESCRIPTION:

Janet Whitehead, applicant and owner, is requesting approval of a major revision to an existing Special Use Permit (SUP) issued February 18, 2002 (SUP 02-02-18-01/ 10421). The SUP was issued for the construction and operation of a Sand Borrow Pit Mine, conditioned with a ten (10) year expiration date. The requested revision will modify the aforementioned condition to allow for another twenty (20) year term for the SUP. This is the only requested revision to the SUP. The current SUP allows for the excavation of  $\pm 30$  acres of a 103.77 acre tract for the mining of fill materials (dirt and sand).

Per the Mining Permit Number 69-35 issued by the North Carolina Department of Environment and Natural Resource (NC DENR), Division of Land Resources on February 13, 2002, the applicant is currently permitted for 109.06 acres of mineable area, with approval to disturb 30.5 acres. Additionally, Mining Permit Number 69-35 expired on February 13, 2012, according to NC DENR Division of Land Resources the renewal application is currently under review, and no Notice of Violations (NOV) have been issued for this operation. The applicant is not proposing or requesting an increase to the mineable area, the approved SUP (SUP 02-02-18-01/ 10421) allows for the excavation of  $\pm 30$  acres of minable area.

As prescribed in the Special Use Permit issued on February 18, 2002 the maximum depth of excavation shall not lower than three (3) feet above mean sea level (MSL). According to the 2002 Special Use Permit the average elevation for the area under excavation is 14.0 feet above mean sea level. The total excavation will be ±11.0 feet below average grade.

Portions of the subject property are located within the “AE” Special Flood Hazard Area (SFHA) along Lillington Creek and its tributaries, according to the February 16, 2007 FEMA Flood Insurance Rate Maps (FIRMs), Map Number 3720325700J, Panel Number 3257. Any new development will need to comply with the National Flood Insurance Rate Program (NFIP) in accordance with the Pender County Unified Development Ordinance, Article 9, Flood Damage Prevention.

With the exception of the extended renewal date as previously described, all other conditions of 10421 R/SUP 02-02-18-01 shall remain in effect; with any modification to the mining area (size and/or depth) or any other change to this permit will require Pender County Board of Commissioners review and approval.

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#### **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 (§3.12.3 of Unified Development Ordinance) and revision and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. *Unified Development Ordinance Compliance:*** The property is currently zoned RA, Rural Agricultural District and Construction Sand and Gravel Mining (NAICS Industry Code 212312) is permitted in RA via Special Use Permit. Additionally, the mining facility has been in operation since the approval of the original Special Use Permit (SUP 02-02-18-01) in 2002.
- D. *2005 CAMA Land Use Plan Compliance:*** The subject property contains three types of land use classifications found in the 2005 CAMA Land Use Plan, including Rural Areas, and Conservation Areas I and II. According to the Pender County GIS, 2010 color orthophotography, it appears the extraction activities are limited to areas classified as Rural Areas, which provides for business traditionally associated with rural farm areas and extraction activities.
- E. *2010 Comprehensive Land Use Plan Compliance:*** The subject property is classified entirely as Rural Growth in the *2010 Comprehensive Land Use Plan*. The Rural Growth land use classification defines those areas of the County where urban services such as public water and sewer are not expected to be provided, this limiting any surrounding residential development to low density. Incompatible residential and non-residential land uses in Rural Growth areas can be accommodated through spatial separation from existing residential development; the project area of the quarry on the subject property is surrounded from existing development to the east and southeast by significant buffer areas, and the areas to the southwest and north are undeveloped and are under permanent conservation restrictions.

The SUP revision request is also supported by goals and policies within the 2010 Comprehensive Land Use Plan:

- **Policy 1A.1.5** – *The County supports a pro-business/pro-growth attitude, balance by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.*
- **Goal 10A.1** – *Promote economic development which meets the needs of the County for expanding the non-residential tax base and providing well-paying jobs.*

Additionally, the SUP request does not conflict with any goals and policies in the 2010 Pender County Comprehensive Land Use Plan.

**F. Existing Land Use in Area:** The majority of the existing land uses in the area surrounding the project site include low residential uses and vacant property. To the north are vacant tracts with two (2) single family home sites, to the east are large vacant tracts, which some agricultural uses; towards the south is vacant and towards the west is single family tracts with 3 vacant tracts owned by Pender County.

**G. Site Access Conditions:** The property has direct access to Shaw Highway via an existing driveway.

**H. Conditions To Consider In Issuing the Special Use Permit For This Project:**

1. The applicant shall submit to the Planning Department a copy of the approved plans and permits from North Carolina Land Quality for Sediment and Erosion Control and/or Mining prior to the issue of a zoning permit.
2. The project access-entrance at Shaw Highway shall be constructed, stabilized and maintained with a road base of aggregate base course as require by NCDOT for secondary roads for a distance of 50 feet beyond the edge of the pavement.
3. A driveway permit shall be issued by the NCDOT for this mining project to be issued a zoning permit.
4. The excavation shall be completed and the project closed out, providing a 5 to 1 slope horizontally, 15 feet beyond and 10 feet inside the final water elevation. No permanent slopes inside the project boundary shall exceed 3 to 1.
5. No land disturbing activities shall take place within 50 feet of any wetlands or beyond the designed project boundary.
6. Portable restrooms shall be maintained on site for the duration of the operation.
7. **Any existing** signs shall be in accordance with Section 15 of the Zoning Ordinance; **any new signs shall be in accordance with Article 10 of the Pender County Unified Development Ordinance (UDO)**
8. The project shall not result in any visible sedimentation beyond the project boundary.
9. The maximum depth of excavation shall not be lower than three (3) feet above MSL.
10. An elevation monument ties to MSL shall be maintained on the site for the duration of the permit.
11. The project boundary corners and turns in the project boundary shall be marked with posts eight (8) feet in length protruding five (5) feet above ground level with a diameter of no less than 3.5 inches. Additionally, boundary markers shall be placed in the project boundary line and space every 300 feet.

12. The property must be graded, seeded, stabilized and maintained in accord with the conditions of this permit and all state and federal permits. Any violation of any state or federal permit that is not corrected within the time specified by the responsible agency will result in the Special Use Permit being immediately void.
13. After completion of the mining activities or prior to the expiration of the permit, all disturbed portions of the site shall be seeded in accord with the approved stabilization plan. A final stabilization plan shall be submitted to the Planning Department as approved by the NC Cooperative Extension Services or SCS within 90 days of issuance of the zoning permit. The site seeding and stabilization shall be maintained until a 98% vegetative coverage has been achieved.
14. The hours of operation for this project shall be limited to 6:30 AM to 6:00 PM, Monday through Saturday.
15. The term of this permit shall be valid for a period of ~~10~~**20** years from the date of issuance of a zoning permit, unless renewed by Pender County.
16. The applicant shall be permitted to have an office located on the site. The office must comply with the Pender County Zoning Ordinance; **any new development would be subject to the requirements of the Pender County Unified Development Ordinance.**
17. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect ~~until all conditions of this permit and other permits have been complied with and the Pender County Planning Department has made a final inspection of the site and provided a written confirmation that the site is in compliance~~ **for the duration of this permit.**
18. **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.**
19. **A separate permit must be obtained for any proposed signs in accordance with Article 10 of the Pender County Unified Development Ordinance.**
20. **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.**
21. **With the exception of the extended renewal date as previously described, all other conditions of 10421 R/SUP 02-02-18-01 shall remain in effect; with any modification to the mining area (size and/or depth) or any other change to this permit will require Pender County Board of Commissioners review and approval.**
22. **Any new development within the "AE" Special Flood Hazard Area (SFHA) will need to comply with the National Flood Insurance Rate Program (NFIP) in accordance with the Pender County Unified Development Ordinance, Article 9, Flood Damage Prevention.**

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**TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:**

**Cape Fear Council of Governments RPO**

It does not appear that this proposed modification would have any additional impacts on traffic.

**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**

*No response.*

**NC DOT Division of Highways**

We have no comments.

**NC DOT Transportation Planning Branch**

*No response.*

**NC Office of State Archaeology**

*No response.*

**NC Wildlife Resources Commission**

*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**

Parks and Recreation has no issues with this request.

**Pender County Public Library**

*No response.*

**Pender County Public Utilities**

No Comment.

**Pender County Schools**

*No response.*

**Pender County Sheriff's Department**

*No response.*

**Pender County Soil and Water Conservation District**

Soil & Water sees no problem as long as all state DENR permit requirements are satisfied.

**Progress Energy Corporation**

*No response.*

**US Army Corps of Engineers**

*No response.*

**Wilmington Metropolitan Planning Organization**

This location is outside the WMPO Urban Boundary area, therefore, I do not have any comments for the requested item.

## **Attachment A**

### **3.12.3 Procedures for Reviewing Applications**

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

### **3.12.4 General Provisions Concerning Special Use Permits**

- B. Revocation - In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Administrator may initiate a notice of violation for the provisions of this ordinance and the conditions of the Special Use Permit not in compliance or the Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified.
- H. Revisions - Major revisions to a Special Use Permit must be submitted to the Board of Commissioners. All legal notice and application fee requirements must be met for major revisions. Revisions that are considered minor revisions to an approved Special Use Permit may be reviewed and approved by the Administrator after basic submission requirements have been completed. All revisions approved by the Administrator must meet the original conditions of the permit as approved by the County Commissioners and current provisions of the Zoning Ordinance. The addition of an accessory structure less than 1000 sq. ft., addition of parking or other ancillary facilities or uses or the addition of similar product lines are examples of revisions that may be considered minor revisions.

## APPLICATION FOR SPECIAL USE PERMIT

### THIS SECTION FOR OFFICE USE

|                            |                      |              |                |
|----------------------------|----------------------|--------------|----------------|
| Application No.            | SUP 10421 - Revision | Date         | 2.01.2012      |
| Application Fee            | \$ 750.00            | Receipt No.  | 116712         |
| Pre-Application Conference | n/a                  | Hearing Date | March 19, 2012 |

### SECTION 1: APPLICANT INFORMATION

|                      |                    |                    |                 |
|----------------------|--------------------|--------------------|-----------------|
| Applicant's Name:    | JANET Whitehead*   | Owner's Name:      | JANET Whitehead |
| Applicant's Address: | 3421 Hwy 210 West  | Owner's Address:   | SAME            |
| City, State, & Zip   | Hampstead NC 28443 | City, State, & Zip | SAME            |
| Phone Number:        | 270-4614           | Phone Number:      | SAME            |

Legal relationship of applicant to land owner:

### SECTION 2: PROJECT INFORMATION

|   |   |                          |                 |
|---|---|--------------------------|-----------------|
| Property Identification Number (PIN):                 | 3257.88.8047  | Total property acreage:  | (+/-) 103.77    |
| Zoning Classification:                                | RA, Rural Agriculture                                       | Acreage to be disturbed: | existing Permit |
| Project Address :                                     | 4324 Shaw Highway Rocky Pt                                  | NAICS Code:              | n/a             |
| Description of Project Location:                      | East side of Shaw Hwy. app. 2.5 miles W. of Lillington lane |                          |                 |
| Describe activities to be undertaken on project site: | Dig fill dirt with excavator & load on Trucks               |                          |                 |

### SECTION 3: SIGNATURES

|                       |       |         |
|-----------------------|-------|---------|
| Applicant's Signature | Date: | 1-30-12 |
| Owner's Signature     | Date: | 1-30-12 |

### NOTICE TO APPLICANT

1. Applicant must also submit the information described on the Special Use Checklist.
2. Applicant or agent authorized in writing must attend the public hearing.
3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing.
4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application
5. **Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing.**

| Office Use Only   |   |   |  |  |  |   |  |
|---|---|---|--|--|--|---|--|
| <input type="checkbox"/> <b>General/</b> Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000<br><input type="checkbox"/> <b>Tower over 75 Feet/</b> Fees \$500<br><input type="checkbox"/> <b>Minor Revisions /</b> Fees \$100<br><input checked="" type="checkbox"/> <b>Mining</b> Fees \$750 |   |   |  |  | <b>Total Fee Calculation: \$</b> 750.00                                  |   |  |
|   |   |   |  |  | <b>Application#:</b> 10421   |   |  |
|   |   |   |  |  | <b>Date of Hearing:</b> 3.19.2012  |   |  |
| Attachments Included with Application: (Please include # of copies)   |   |   |  |  |  |   |  |
| CD /other digital version   | <input checked="" type="checkbox"/> Y<br><input type="checkbox"/> N | Plan Sets <input checked="" type="checkbox"/> | # of large <input checked="" type="checkbox"/>   | # of 11X17 <input checked="" type="checkbox"/> | Other documents/Reports  | <input checked="" type="checkbox"/> Y<br><input type="checkbox"/> N |  |
| <b>Payment Method:</b>  | <b>Cash :</b><br><input type="checkbox"/> \$ _____                  |   | <b>Credit Card:</b><br><input type="checkbox"/> Master Card<br><input type="checkbox"/> Visa |  | <b>Check:</b><br><input checked="" type="checkbox"/> Check # <u>6159</u> |   |  |
| Application received by: <u>Ashley A Frank</u>  |   |   |  |  | Date: <u>2.1.2012</u>  |   |  |
| Application completeness approved by: <u>Ashley A Frank</u>   |   |   |  |  | Date: <u>8.1.2012</u>  |   |  |

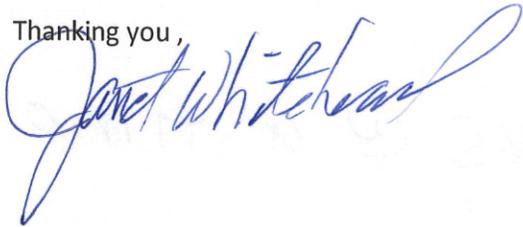
### Special Use Permit Checklist

|  |  |
|--|--|
| <input checked="" type="checkbox"/>  | Signed Application Form (Both Applicant and Owner)   |
| <input checked="" type="checkbox"/>  | Application fee <del>100</del> = 750 ✓   |
| <input checked="" type="checkbox"/>  | Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete)   |
| <input checked="" type="checkbox"/>  | One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.  |
| <input checked="" type="checkbox"/>  | <b>Project Narrative</b> --Written description of the project ( <u>max of 3 pages</u> ) including the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Location of the project and type of access to project site</li> <li><input type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc.</li> <li><input type="checkbox"/> Description of all construction activities to be undertaken on the site</li> <li><input type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers</li> <li><input type="checkbox"/> List of all state and federal permits that will be required for the project</li> <li><input type="checkbox"/> Describe any potential impacts the project will have on the community or adjacent properties such as traffic, noise, etc. and explain efforts to mitigate these impacts (<u>this item must be addressed by the applicant</u>). The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.</li> </ul>   |
| <input checked="" type="checkbox"/>  | <b>Project Map(s)</b> --Map or maps of the special use project site with boundaries of the project if less than the parcel boundaries. This map or maps shall be drawn to a <u>readable</u> scale. The scale shall be not more than 200' to the inch. The map shall display an accurate bar graph scale, date prepared, north arrow and the author of the map. This map(s) shall show the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Boundaries of the property upon which the special use will be located, the acreage in the property and project site, with a north arrow and bar graph.</li> <li><input type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road.</li> <li><input type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property.</li> <li><input type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries.</li> <li><input type="checkbox"/> Existing and proposed structures, other on-site improvements, and location of all activities associated with the use, location of well, septic tank, and/or other utilities.</li> <li><input type="checkbox"/> Boundary of all clearing, grading, and/or land disturbing activities on the site and the calculated acreage of all land disturbing activities on the site.</li> <li><input type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO)</li> <li><input type="checkbox"/> Landscaping and buffering (See Article 8, Pender County UDO)</li> <li><input type="checkbox"/> All signs to be located on the property (See Article 10, Pender County UDO)</li> <li><input type="checkbox"/> Pedestrian walks, area lighting and flood lighting.</li> <li><input type="checkbox"/> Existing natural features of the site including, wooded areas, tree lines, ponds, streams, other water bodies or ditches on or adjacent to the site, designated flood hazard areas &amp; known or designated wetlands on the site.</li> <li><input type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site.</li> <li><input type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted.</li> <li><input type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.</li> </ul> |
| <b>RETURN COMPLETED APPLICATION TO:</b><br>Pender County Planning & Community Development<br>P.O. Box 1519<br>Burgaw, NC 28425 |  |

I would like for this renewal to be for 20 years so I won't have to renew it again.

The project is the same as originally submitted in 2002. We dig dirt out of the ground and load it on trucks to be sold. The state permit is being renewed as I submit this letter. We have complied with all rules and regulations. State bond is in place. Permit is for 30 acres on the app. 104 acre tract. Have used app. 12 acres.

Thanking you,

A handwritten signature in blue ink that reads "Janet Whitehead". The signature is written in a cursive style with a large initial 'J'.

**DEPARTMENT OF ENVIRONMENT  
AND NATURAL RESOURCES**

**DIVISION OF LAND RESOURCES**

**LAND QUALITY SECTION**

**P E R M I T**

for the operation of a mining activity

In accordance with the provisions of G.S. 74-46 through 68, "The Mining Act of 1971," Mining Permit Rule 15A NCAC 5 B, and other applicable laws, rules and regulations

Permission is hereby granted to:

Janet G. Whitehead

Shaw Pit

Pender County - Permit No. 71-20

for the operation of a

Sand Mine

which shall provide that the usefulness, productivity and scenic values of all lands and waters affected by this mining operation will receive the greatest practical degree of protection and restoration.

MINING PERMIT EXPIRATION DATE: February 13, 2012



North Carolina Department of Environment and Natural Resources  
Division of Land Resources  
Land Quality Section

Charles H. Gardner, P.G., P.E.  
Director and State Geologist

February 13, 2002

Michael F. Easley, Governor  
William G. Ross, Jr., Secretary

Ms. Janet G. Whitehead  
3421 Hwy 210W  
Hampstead, North Carolina 28443

RE: Shaw Pit  
Pender County  
Cape Fear River Basin

Dear Ms. Whitehead:

The application for a mining permit for the above referenced mine site has been found to meet the requirements of G.S. 74-51 of The Mining Act of 1971. As we have received the required security to cover this application, I am enclosing the mining permit.

The conditions of Mining Permit No. 69-35 were based primarily upon information supplied in the application with conditions added as necessary to insure compliance with The Mining Act of 1971. This permit expires on February 13, 2012. G.S. 74-65 states that the issuance of a mining permit does not supersede or otherwise affect or prevent the enforcement of any zoning regulation or ordinance duly adopted by an incorporated city or county or by any agency or department of the State of North Carolina.

As a reminder, your permitted acreage at this site is 109.06 acres and the amount of land you are approved to disturb is 30.5 acres.

Please review the permit and notify this office at (919) 733-4574 of any objection or questions concerning the terms of the permit.

Sincerely,

Tracy E. Davis, P.E., C.P.M.  
State Mining Specialist  
Land Quality Section

TED/ch  
Enclosures

cc: Mr. Dan Sams, P.E.  
Ms. Diane Renzi -WRC, w/enclosures  
Mr. Bradley Bennett - DWQ, w/enclosures  
Mr. William Gerringer - DOL, Mine and Quarry Bureau, w/o enclosures

1612 Mail Service Center, Raleigh, North Carolina 27699-1612 • 919-733-4574 / FAX: 919-733-2876  
512 North Salisbury Street, Raleigh, North Carolina 27604

In accordance with the application for this mining permit, which is hereby approved by the Department of Environment and Natural Resources, hereinafter referred to as the Department, and in conformity with the approved Reclamation Plan attached to and incorporated as part of this permit, provisions must be made for the protection of the surrounding environment and for reclamation of the land and water affected by the permitted mining operation. This permit is expressly conditioned upon compliance with all the requirements of the approved Reclamation Plan. However, completed performance of the approved Reclamation Plan is a separable obligation, secured by the bond or other security on file with the Department, and may survive the expiration, revocation or suspension of this permit.

This permit is not transferable by the permittee with the following exception: If another operator succeeds to the interest of the permittee in the permitted mining operation, by virtue of a sale, lease, assignment or otherwise, the Department may release the permittee from the duties imposed upon him by the conditions of his permit and by the Mining Act with reference to the permitted operation, and transfer the permit to the successor operator, provided that both operators have complied with the requirements of the Mining Act and that the successor operator agrees to assume the duties of the permittee with reference to reclamation of the affected land and posts a suitable bond or other security.

In the event that the Department determines that the permittee or permittee's successor is not complying with the Reclamation Plan or other terms and conditions of this permit, or is failing to achieve the purposes and requirements of the Mining Act, the Department may give the operator written notice of its intent to modify, revoke or suspend the permit, or its intent to modify the Reclamation Plan as incorporated in the permit. The operator shall have right to a hearing at a designated time and place on any proposed modification, revocation or suspension by the Department. Alternatively and in addition to the above, the Department may institute other enforcement procedures authorized by law.

#### Definitions

Wherever used or referred to in this permit, unless the context clearly indicates otherwise, terms shall have the same meaning as supplied by the Mining Act, N.C.G.S. 74-49.

#### Modifications

#### Expiration Date

This permit shall be effective from the date of its issuance until February 13, 2012.

#### Conditions

This permit shall be subject to the provisions of the Mining Act, N.C.G.S. 74-46, et. seq., and to the following conditions and limitations:

#### OPERATING CONDITIONS:

1. A. Any wastewater processing or mine dewatering shall be in accordance with the permitting requirements and rules promulgated by the N.C. Environmental Management Commission.
- B. Any stormwater runoff from the affected areas at the site shall be in accordance with any applicable permit requirements and regulations promulgated by the Environmental Protection Agency and enforced by the N.C. Environmental Management Commission. It shall be the permittee's responsibility to contact the Stormwater Section, Division of Water Quality, to secure any necessary stormwater permits or other approval documents.

2.
  - A. Any mining process producing air contamination emissions shall be subject to the permitting requirements and rules promulgated by the N.C. Environmental Management Commission and enforced by the Division of Air Quality.
  - B. During mining operations, water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the permitted area.
3.
  - A. Sufficient buffer (minimum 50 foot undisturbed) shall be maintained between any affected land and any adjoining waterway or wetland to prevent sedimentation of that waterway or wetland from erosion of the affected land and to preserve the integrity of the natural watercourse or wetland.
  - B. Any mining activity affecting waters of the State, waters of the U. S., or wetlands shall be in accordance with the requirements and regulations promulgated and enforced by the N. C. Environmental Management Commission.
4.
  - A. Adequate mechanical barriers including but not limited to diversions, earthen dikes, silt check dams, silt retarding structures, rip rap pits, or ditches shall be provided in the initial stages of any land disturbance and maintained to prevent sediment from discharging onto adjacent surface areas or into any lake, wetland or natural watercourse in proximity to the affected land.
  - B. All drainage from the affected area around the mine excavation shall be diverted internal to said excavation.
  - C. All mining activities, including the installation and maintenance of all erosion and sedimentation control measures, shall be conducted as indicated on the mine map, haul road entrance construction detail, and typical pit cross-section submitted to the Department on December 7, 2001.
5. All affected area boundaries (30.5 acres) shall be visibly and permanently marked at the site on 100 foot intervals unless the line of sight allows for larger spacing intervals.
6. The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control measure, structure, or device. In any event, exposed slopes or any excavated channels, the erosion of which may cause off-site damage because of siltation, shall be planted or otherwise provided with ground cover, devices or structures sufficient to restrain such erosion.
7. The affected land shall be graded so as to prevent collection of pools of water that are, or likely to become, noxious or foul. Necessary structures such as drainage ditches or conduits shall be constructed or installed when required to prevent such conditions.
8. Existing vegetation or vegetated earthen berms shall be maintained between the mine and public thoroughfares whenever practical to screen the operation from the public.
9. Sufficient buffer (minimum of 150 foot undisturbed) shall be maintained between any excavation and any mining permit boundary, as indicated on the mine map submitted to the Department on December 7, 2001.
10. Refuse Disposal
  - A. No on-site disposal of refuse or other solid waste that is generated outside of the mining permit area shall be allowed within the boundaries of the mining permit area unless authorization to conduct said disposal has first been obtained from both the Division of Waste Management and the Land Quality Section, Department of Environment and Natural Resources. The method of disposal shall be consistent with the approved reclamation plan.

- B. Mining refuse as defined by G.S. 74-49 (14) of The Mining Act of 1971 generated on-site and directly associated with the mining activity may be disposed of in a designated refuse area. All other waste products must be disposed of in a disposal facility approved by the Division of Waste Management. No petroleum products, acids, solvents or their storage containers or any other material that may be considered hazardous shall be disposed of within the permitted area.
- C. For the purposes of this permit, the Division of Land Resources considers the following materials to be "mining refuse" (in addition to those specifically listed under G.S. 74-49 (14) of the N.C. Mining Act of 1971):
- 1) on-site generated land clearing debris
  - 2) conveyor belts
  - 3) wire cables
  - 4) v-belts
  - 5) steel reinforced air hoses
  - 6) drill steel
- D. If mining refuse is to be permanently disposed within the mining permit boundary, the following information must be provided to and approved by the Division of Land Resources prior to commencement of such disposal:
1. the approximate boundaries and size of the refuse disposal area;
  2. a list of refuse items to be disposed;
  3. verification that a minimum of 4 feet of cover will be provided over the refuse;
  4. verification that the refuse will be disposed at least 4 feet above the seasonally high water table; and
  5. verification that a permanent vegetative groundcover will be established.
11. An Annual Reclamation Report shall be submitted on a form supplied by the Department by February 1 of each year until reclamation is completed and approved.
12. The operator shall notify the Department in writing of the desire to delete, modify or otherwise change any part of the mining, reclamation, or erosion/sediment control plan contained in the approved application for a mining permit or any approved revision to it. Approval to implement such changes must be obtained from the Department prior to on-site implementation of the revisions.
13. The security which was posted pursuant to N.C.G.S. 74-54 in the form of a \$19,000.00 Irrevocable Standby Letter of Credit is sufficient to cover the operation as indicated in the approved application. This security must remain in force for this permit to be valid. The total affected land shall not exceed the bonded acreage.
14. A. Authorized representatives of the Division of Archives and History shall be granted access to the site to determine the presence of significant archaeological resources.
- B. Pursuant to N. C. G. S. 70 Article 3, "The Unmarked Human Burial and Human Skeletal Remains Protection Act," should the operator or any person in his employ encounter human skeletal remains, immediate notification shall be provided to the county medical examiner and the chief archaeologist, North Carolina Division of Archives and History.

## APPROVED RECLAMATION PLAN

The Mining Permit incorporates this Reclamation Plan, the performance of which is a condition on the continuing validity of that Mining Permit. Additionally, the Reclamation Plan is a separable obligation of the permittee, which continues beyond the terms of the Mining Permit.

The approved plan provides:

### Minimum Standards As Provided By G.S. 74-53

1. The final slopes in all excavations in soil, sand, gravel and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land.
2. Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.
3. All overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices and which is suitable for the proposed subsequent use of the land.
4. No small pools of water shall be allowed to collect or remain on the mined area that are, or are likely to become noxious, odious or foul.
5. The revegetation plan shall conform to accepted and recommended agronomic and reforestation practices as established by the North Carolina Agricultural Experiment Station and the North Carolina Forest Service.
6. Permittee shall conduct reclamation activities pursuant to the Reclamation Plan herein incorporated. These activities shall be conducted according to the time schedule included in the plan, which shall to the extent feasible provide reclamation simultaneous with mining operations and in any event, provide reclamation at the earliest practicable time after completion or termination of mining on any segment of the permit area and shall be completed within two years after completion or termination of mining.

### RECLAMATION CONDITIONS:

1. Provided further, and subject to the Reclamation schedule, the planned reclamation shall be to restore the mine excavation to a lake area and to grade and revegetate the adjacent disturbed areas.
2. The specifications for surface gradient restoration to a surface suitable for the planned future use are as follows:
  - A. The lake area shall be excavated to maintain a minimum water depth of four feet measured from the low water table elevation.
  - B. The side slopes to the lake excavation shall be graded to a 3 horizontal to 1 vertical or flatter to the water line and 2 horizontal to 1 vertical or flatter below the water line.
  - C. Any areas used for wastepiles, screening, stockpiling or other processing shall be leveled and smoothed.
  - D. No contaminants shall be permanently disposed of at the mine site. On-site disposal of waste shall be in accordance with Operating Condition Nos. 10.A. through D.

E. The affected land shall be graded to prevent the collection of noxious or foul water.

3. Revegetation Plan:

After site preparation, all disturbed land areas shall be revegetated as per the following:

Permanent Seeding Specifications

| <u>Dates</u>            | <u>Species</u>          | <u>Rate, Lbs/Acre</u> |
|-------------------------|-------------------------|-----------------------|
| February 15- April 1    | Kobe Lespedeza          | 10                    |
|                         | Bahiagrass              | 50                    |
|                         | Redtop                  | 1                     |
|                         | Winter rye (grain)      | 15                    |
| April 1- July 31        | Common Bermuda          | 50                    |
| August 1- October 25    | Lespedeza (unscarified) | 30                    |
|                         | German millet           | 40                    |
| October 25- February 15 | Rye (grain- temporary)  | 120                   |

Soil Amendments

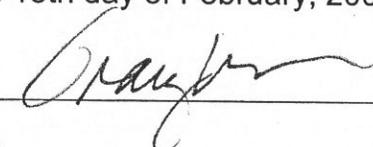
- Lime- 2000 lbs/acre or follow recommendations from a soil test.
- Fertilizer- 1000 lbs/acre 8-8-8 or 10-10-10, or follow recommendations from a soil test.
- Mulch- All seeded areas shall be mulched using small grain straw at a rate of 2000 lbs/acre and anchored appropriately.

In addition, the permittee shall consult with a professional wildlife biologist with the N.C. Wildlife Resources Commission to enhance post-project wildlife habitat at the site.

4. Reclamation Plan:

Reclamation shall be conducted simultaneously with mining to the extent feasible. In any event, reclamation shall be initiated as soon as feasible after completion or termination of mining of any mine segment under permit. Final reclamation, including revegetation, shall be completed within two years of completion or termination of mining.

Permit issued this 13th day of February, 2002 pursuant to G.S. 74-51.

By:  \_\_\_\_\_

 Charles H. Gardner, Director  
Division of Land Resources  
By Authority of the Secretary  
Of the Department of Environment and Natural Resources

INTRODUCED BY: Johnny Sutton    DATE: February 18, 2002    ITEM NO: 21

TITLE: Special Use Permit for borrow pit mining by Janet Whitehead on Shaw Highway.

SUBJECT:    CASE NO: 02-02-18-01  
              PROPERTY RECORD NO: 39758  
              APPLICANT: Janet Whitehead  
              OWNER: Janet & Billy Whitehead

ACTION REQUESTED: Approval of a Special Use Permit for sand borrow pit mining.

**HISTORY/BACKGROUND:**

*Project Location:*        The property and access road are located on the eastern side of Shaw Hwy approximately 0.25 miles North of Lillington Dr.

*Project Description:*    The project consists of the excavation of 30+/- acres of a 104-acre tract for mining of fill material (see applicant's project description). The average elevation for the area to be excavated is 14.0' mean sea level (MSL). The total excavation will be approximately 11.0' below the average grade. The water table is estimated to be at 10.0' MSL. This will result in a final water level at 10.0' MSL and a final water depth of 7.0' after reclamation. There will be no discharge of water from the site. This project is expected to last 10 years. After the mine has been closed out the applicant is proposing a fish farm. The applicant is proposing to have three (3) employees and hours of operation are to be 6:30 a.m. to 6:00 p.m. Monday through Saturday. Access to the pit will be along a haul road that will run from Shaw Hwy. to the pit.

**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) Zoning Ordinance Compliance:* This property is zoned RA. Borrow pit mining is permitted in the RA district as a Special Use. This project is not inconsistent with the Zoning Ordinance.

*C) Land Use Plan Compliance:* This property is classified as Rural. The Rural classification is a class that would be suitable for a borrow mine pit. Therefore this project is not inconsistent with the Land Use Plan.

*D) 20/20 Growth Management Plan:* This project is not inconsistent with the 20/20 Growth Management Plan.

*E) Existing Land Use In Area:* The majority of the project site is surrounded by vacant land. There is one Residence located on Shaw Hwy at the western end of the property. The house is at least 0.25 mile from any mining activities.

*G) Site Access Conditions:* The project site will be accessed from Shaw Highway via an unpaved 50' haul road that will run along the southern property line to the proposed pit. The property has access to a state maintained road.

*H) Conditions To Consider In Issuing A Special Use Permit For This Project*

1. The applicant shall submit to the Planning Department a copy of the approved plans and permits from North Carolina Land Quality for Sediment and Erosion Control and/or Mining, prior to the issuance of a zoning permit.
2. The project access-entrance at Shaw Highway shall be constructed, stabilized and maintained with a road base of aggregate base course as required by NCDOT for secondary roads for a distance of 50' beyond the edge of pavement.



PROJECT:Shaw Pit

12-17-2001

Janet Whitehead - Owner  
3421 Hwy. 210 W.  
Hampstead, N. C. 28443

The location of the project is 4 miles north of Hwy. 210 at Rocky Point, NC on Shaw Hwy. SR 1520 on the right side of the road. The mail box no. is 4295.

The adjoining property owners are Danny Meeks, 108 Francis Marion Dr. Wilmington, N.C. 28411, Ethel and Bobby Moore 370 N. Holly Shelter Est. Rocky Point, N.C. 28457, Kevin Millis 4404 Shaw Hwy. Rocky Point, N.C. 28457, Woodard Danford 4690 Shaw Hwy. Rocky Point, N.C. 28457, Richard Meeks, Jr. 1433 Washington Acres Rd. Hampstead, N.C. 28443, Sharon Hawes 4747 Shaw Hwy. Rocky Point, N.C. 28457, Daniel Kempton 31 Red Hawk Lane Rocky Point, N.C. 28457 ( enclosed are signed statements from each that they do not oppose project) Nearest house to pit is app.  $\frac{1}{2}$  mile.

Our property consist of 104 acres. Our project is to excavate 30 acres of fill. It will be dug with an excavator and loaded on trucks. Pit is app.  $\frac{3}{4}$  miles from Shaw Hwy.

Our haul road is on our land and does not cross anyone. There will be no noise problem to anyone.

Hours will be 6:30 A.M. to 6:00 P.M. Monday thru Sat. We will have app. 3 employees.

There will be no run off water to maintain. Slopes will be left at 3 to 1 and will be grassed as area expands,

Janet Paith has been to the site (N.C. Dept. of Nat. Res.)

Bennett Wynne with the Wildlife has inspected the site for endangered species and it is free.

The land is zoned RA in which pit mining is allowed.

Warning signs will be posted outside pit area.

There is a shed on property to house equipment.

Enclosed are 3 more statement from neighbors not opposing this project.

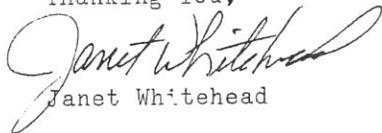
We received a permit on Nov. 1, 1999 to excavate dirt on Hwy. 210. After a short while into the project we found the soil to be clay. We need dirt and sand for our business.

This is why we need this new pit. We cannot have a business without good dirt. Other truckers have contacted us wanting fill. There is a need for good fill.

The other pit is still available when we need clay fill.

The ponds will be stocked with Catfish when the project is complete

Thanking You,

A handwritten signature in cursive script that reads "Janet Whitehead". The signature is written in dark ink and is positioned above the printed name.

Janet Whitehead

PENDER PLANNING DEPT.

1-15-2002

JON GILES JR.

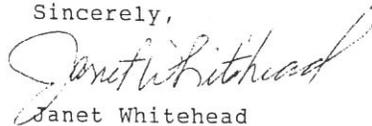
Project: Janet Whitehead  
Shaw Hwy. Pit

Our project will be for 10 years. At the end of our project we will have a fish farm. There will be no discharge of water on site. The excavator will dig the dirt, cast it behind the machine and then loaded onto trucks with a loader. If any of the excavated soil has run off it will go directly into the pond. The ground water elevation is 10 foot ( on map).

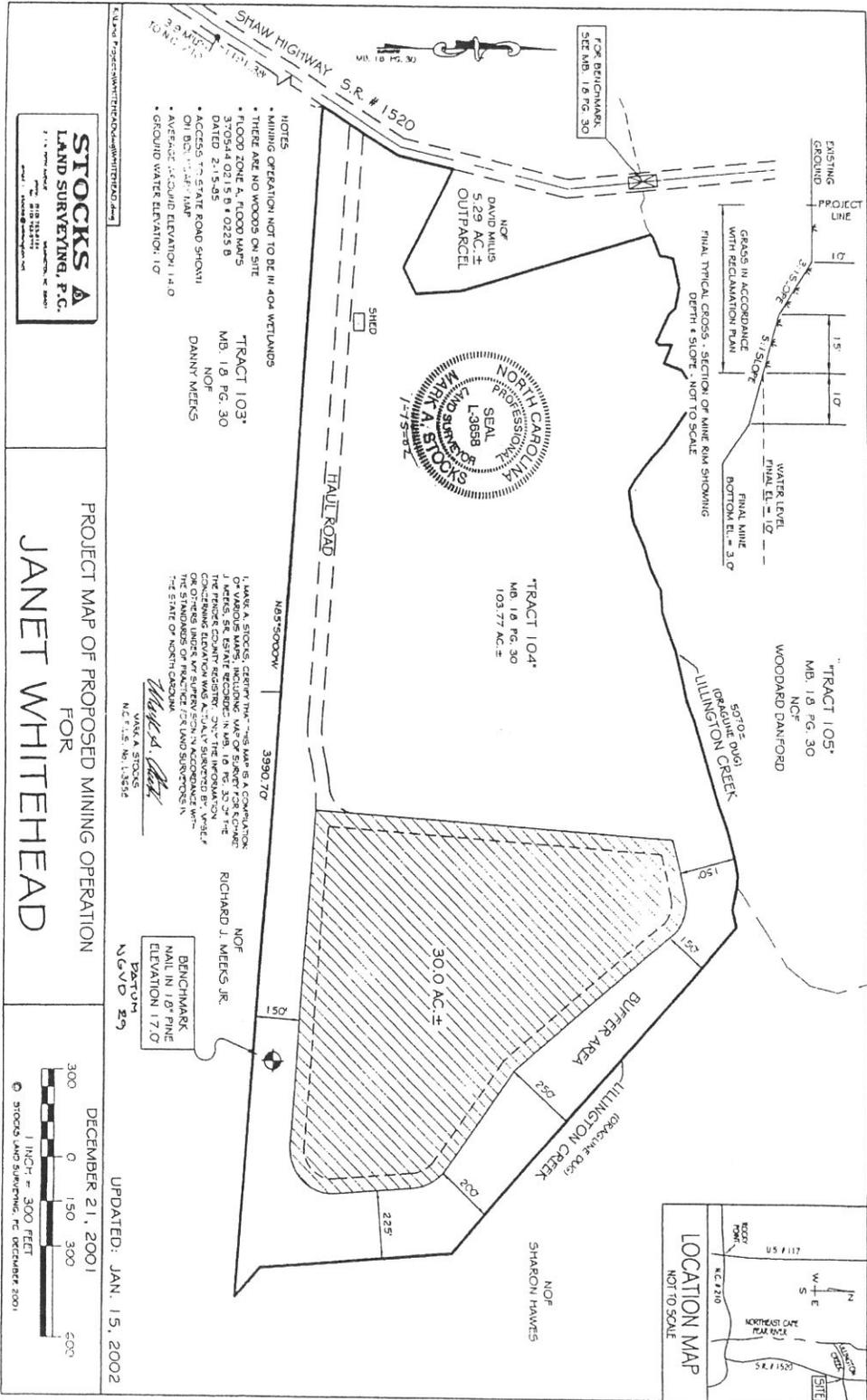
Enclosed is map signed and sealed. The distance from creek is also marked on map. Elevation marker is on site plan also.

This should take care of everything, if not please call 270-4614.

Sincerely,

A handwritten signature in cursive script that reads "Janet Whitehead".

Janet Whitehead



**21. Special Use Permit for Borrow Pit Mining by Janet Whitehead on Shaw Highway**

Mr. Strickland opened the public hearing at 7:20 p.m. and Mr. Thurman swore in the witnesses: William and Janet Whitehead. Johnny Sutton, Community Development Coordinator, said this is a request for a borrow pit mine on the east side of Shaw Highway. He said it is located on property between Lillington Lane and Lillington Creek and is zoned RA. He said this use is consistent with the Land Use Plan and the Pender 20/20 policies.

Mr. Sutton said that staff has delineated 16 conditions in the proposed permit. He said that the applicant is now talking about the possibility of an office on the property, which is an acceptable use. He said that if the Board were inclined to grant this permit, he would propose a condition number 17- "Applicant is permitted to have an office building, subject to compliance with the terms of the Zoning Ordinance as to its' use".

Mr. Holland asked if they have state permits for mining and Mr. Sutton responded that he just received a copy of the state permit today. Since no one but the applicants had signed up to speak, Chairman Strickland closed the public hearing at 7:25 p.m. Mr. Long made a motion to approve the Special Use Permit, with the proposed conditions 1-16 and including item 17, which authorizes an office in compliance with the terms of the Zoning Ordinance as to its' use. Mr. Holland provided a second and the Board unanimously approved item number 21, i.e.; That on February 18, 2002, the Pender County Board of Commissioners considered a Special Use permit for Janet Whitehead as described herein and Dwight Strickland, Chairman, or Martin Beach, County Manager/Clerk to the Board, are authorized to execute the order implementing this resolution and provide notice to the applicant of the action taken herein.

**22. Special Use Permit to Operate a Used Car Sales Lot**

Chairman Strickland opened the public hearing at 7:25 p.m. The County Attorney swore in the witnesses. Mr. Sutton said this is a request for a Special Use Permit to operate a used car lot located on US Highway 17 North, across from entrance to Pelican Reef Subdivision. He said the applicant has a zoning permit for a mobile home sales lot, which was granted in the fall of 2000 and revised in the early spring of 2001. He said the mobile home sales operation has not yet been activated.

Mr. Sutton said there are several circumstances unique to this site. He said the rear and south of the property border single family residential homes and it is across Highway 17 from the entrance to Pelican Reef subdivision. He said the parcel is approximately 6 acres in size, with 4.5 acres being wetlands. He said staff has reviewed this application and finds that it is **not** consistent with the Pender County Land Use Plan or the 20/20 policies. He said that while the Ordinance does not require that the Special Use Permit be in accord with the 20/20 plan policies (that was not adopted prior to the time of the Ordinance), it does require accordance with the Land Use Plan. He said staff has recommended 11 conditions, should the Board decide to approve this permit.

Mrs. Justice asked if the applicant understands that this permit is inconsistent with the Land Use Plan? Mr. Sutton confirmed that he had so notified the applicant.

**COUNTY OF PENDER  
NOTICE OF APPROVAL  
SPECIAL USE PERMIT**

THE PENDER COUNTY BOARD OF COMMISSIONERS MET ON FEBRUARY 18, 2002 AND HELD A PUBLIC HEARING TO CONSIDER THE FOLLOWING SPECIAL USE PERMIT APPLICATION:

CASE NO: 02-02-18-01

PROP. REC. NO: 39758

APPLICANT: Janet Whitehead

OWNER: Janet & Billy Whitehead

PROPERTY LOCATION: On the eastern side of Shaw Hwy. approximately 0.25 miles North of Lillington Dr.

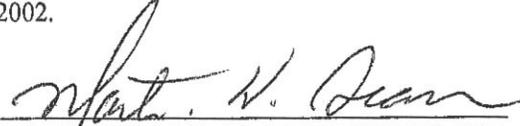
PROPOSED USE OF PROPERTY: Borrow Pit Mining

HAVING HEARD AND CONSIDERED ALL THE EVIDENCE AND ARGUMENTS PRESENTED AT THE HEARING, THE BOARD OF COMMISSIONERS FIND THAT THE APPLICATION IS COMPLETE, COMPLIES WITH SECTION 12 OF THE ZONING ORDINANCE AND IS CONSISTENT WITH THE PENDER COUNTY LAND USE PLAN. THIS APPLICATION FOR A SPECIAL USE PERMIT IS HEREBY APPROVED, SUBJECT TO THE PROJECT BEING DEVELOPED IN ACCORD WITH THE CONCEPTUAL PLAN AS APPROVED AND SIGNED BY THE PLANNING DIRECTOR OR DESIGNATED OFFICIAL AND SUBJECT TO COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF THE PENDER COUNTY ZONING ORDINANCE, LAND USE PLAN, OTHER FEDERAL, STATE AND COUNTY CODES AND THE FOLLOWING CONDITIONS:

1. The applicant shall submit to the Planning Department a copy of the approved plans and permits from North Carolina Land Quality for Sediment and Erosion Control and/or Mining, prior to the issuance of a zoning permit.
2. The project access-entrance at Shaw Highway shall be constructed, stabilized and maintained with a road base of aggregate base course as required by NCDOT for secondary roads for a distance of 50' beyond the edge of pavement.
3. A driveway permit shall be issued by NCDOT for this mining project prior to the issuance of a zoning permit.
4. The excavation shall be completed and the project closed out, providing a 5 to 1 slope horizontally, 15' beyond and 10' inside the final water elevation. No permanent slopes inside the project boundary shall exceed 3 to 1.
5. No land disturbing activities shall take place within 50' of any wetlands or beyond the designated project boundary.
6. Portable restrooms shall be maintained on the site for the duration of operation.
7. Signs shall be in accordance with Section 15 of the Zoning Ordinance.
8. The project shall not result in any visible sedimentation beyond the project boundary.
9. The maximum depth of excavation shall not be lower than 3' above MSL.
10. An elevation monument tied to MSL shall be maintained on the site for the duration of the permit.
11. The project boundary corners and turns in the project boundary shall be marked with posts eight feet long and protruding five feet above ground level with a diameter no less than 3.5 inches. Additional boundary markers shall be placed in the project boundary line and spaced every 300 ft.
12. The property must be graded, seeded, stabilized and maintained in accord with the conditions of this permit and all state and federal permits. Any violation of any state or federal permit that is not corrected within the time specified by the responsible agency will result in the Special Use Permit being immediately void.
13. After completion of the mining activities or prior to expiration of the permit, all disturbed portions of the site shall be seeded in accord with the approved stabilization plan. A final stabilization plan shall be submitted to the Planning Dept. as approved by the NC Cooperative Extension Service or SCS within 90 days of issuance of the zoning permit. The site seeding and stabilization shall be maintained until a 98% vegetative coverage has been achieved.
14. The hours of operation for this project shall be limited to 6:30 a.m. to 6:00 p.m. Monday through Saturday.
15. The term of this permit shall be for a period of 10 years from the date of issuance of a zoning permit, unless renewed by Pender County.
16. The applicant shall be permitted to have an office located on the site. The office must comply with the Pender County Zoning Ordinance.
17. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect until all conditions of this permit and other permits have been complied with and the Pender County Planning Department has made a final inspection of the site and provided a written certification that the site is in compliance.

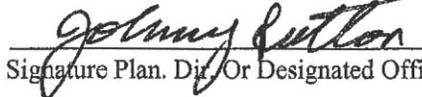
THIS DECISION FOR ISSUANCE OF THIS SPECIAL USE PERMIT WAS RENDERED BY THE BOARD OF COMMISSIONERS ON THE 18<sup>th</sup> DAY OF FEBRUARY, 2002.

THIS 26<sup>th</sup> DAY OF March 2002.

  
 MARTIN BEACH, CLERK TO THE BOARD

A written copy of this decision was placed on file in the Pender County Planning Dept. and served on the Owner or Applicant noted below by certified mail, return receipt requested on the \_\_\_\_ day of \_\_\_\_\_ 2002.

Johnny Sutton  
 Print Official's Name

  
 Signature Plan. Dir. Or Designated Official

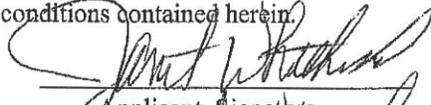
3-28-02  
 Date

The Owner/Applicant is hereby given notice of the following:

- 1) "Appeals to the Superior Court may be taken by any person, firm or corporation aggrieved, or affected by any decision of the Board of Commissioners, provided such appeals shall be taken within thirty (30) days after the decision of the Board of Commissioners is filed in the office of the Zoning Administrator (Planning Director), or after a written copy thereof is delivered to the applicant, whichever is later."
- 2) A Zoning Permit must be obtained for the project before clearing, grading or other construction activities are undertaken on the site.
- 3) This permit will be void in six months from the date of issue, unless a zoning permit has been obtained, and the project is under construction, or contracted for by that time.

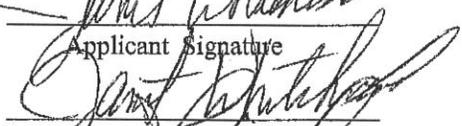
The undersigned applicant for the Special Use Permit described herein does hereby accept this Permit and the conditions noted herein as binding on them and their successors in interest, and further acknowledge that work on the project will not commence except in accordance with the conditions contained herein.

JANET WHITEHEAD  
 Print Applicant Name

  
 Applicant Signature

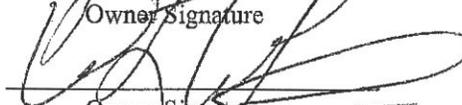
4-1-02  
 Date

JANET WHITEHEAD  
 Print Owner Name

  
 Owner Signature

4-1-02  
 Date

Billy Whitehead  
 Print Owner Name

  
 Owner Signature

4-1-02  
 Date



**Owner/Applicant:  
Janet Whitehead**

**Special Use Permit  
Revision**

**Sand Borrow Pit Mine  
Amendment  
to Term Condition**

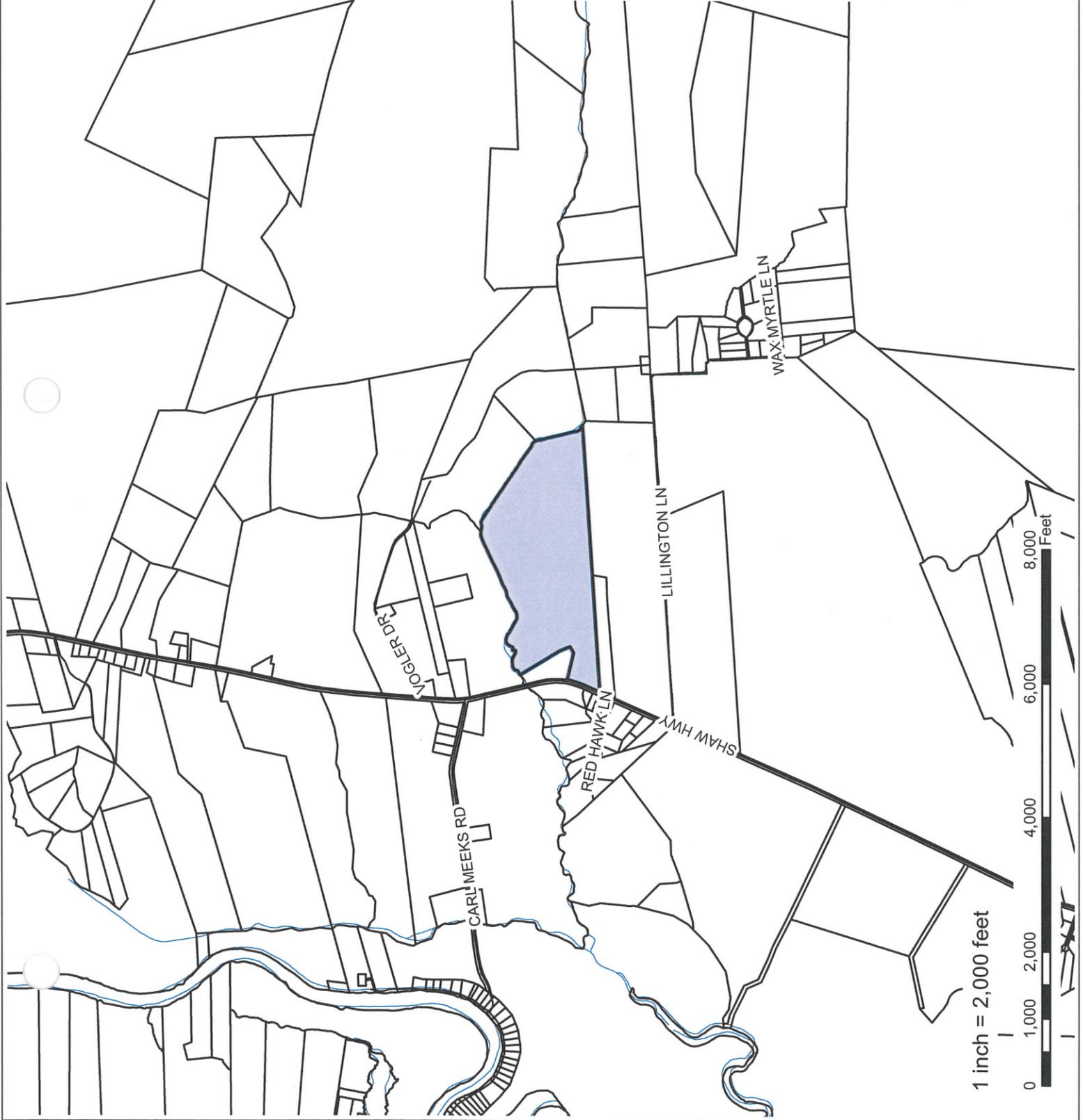
**Case # 10421 R**

**Legend**

- Subject Property



**VICINITY MAP**





**Owner/Applicant:  
Janet Whitehead**

**Special Use Permit  
Revision**

**Sand Borrow Pit Mine  
Amendment  
to Term Condition**

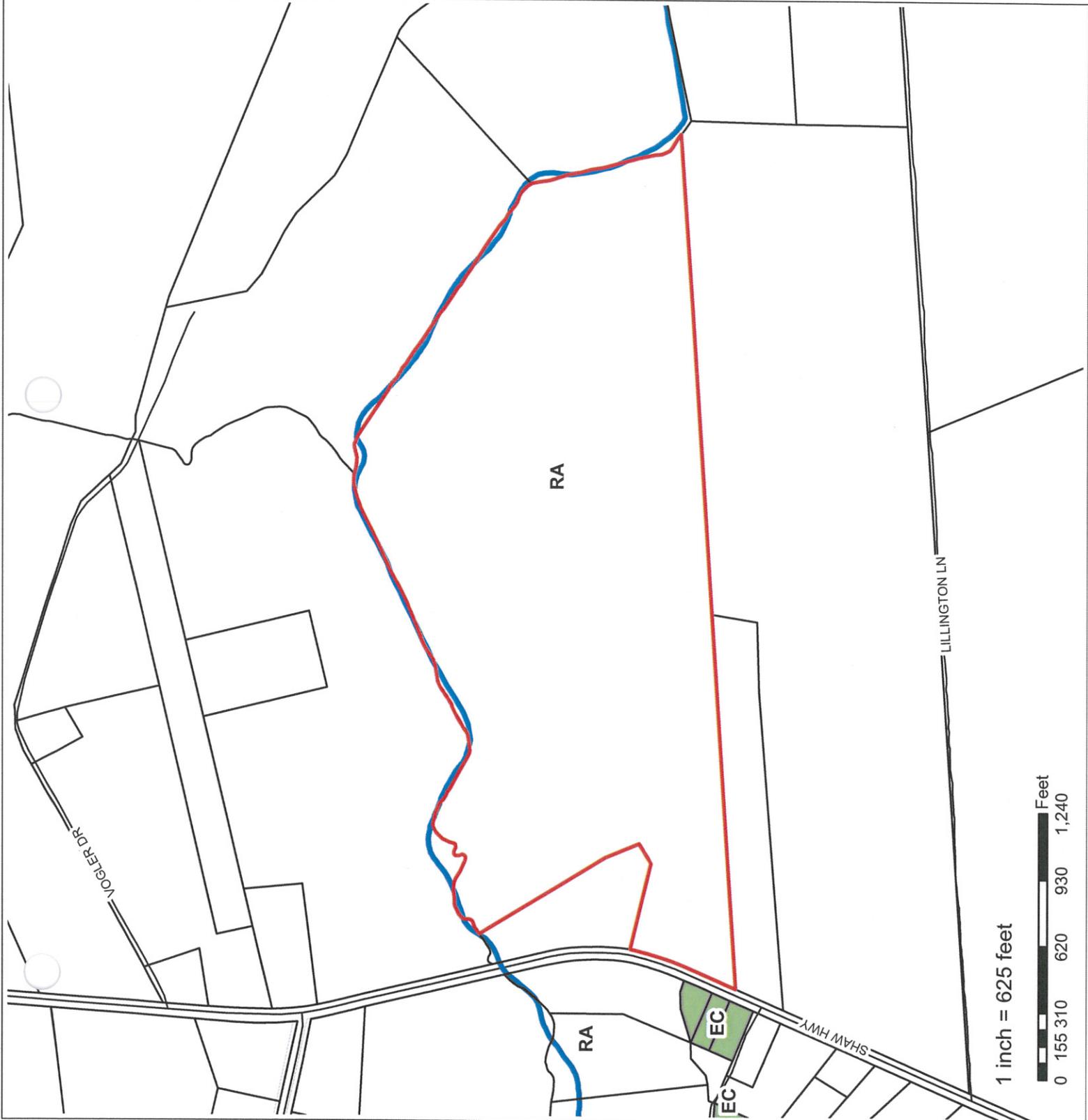
**Case # 10421 R**

**Legend**

- Subject Property
- Zoning Classification**
- General Business (GB)
- General Industrial (GI)
- Industrial Transition (IT)
- Office & Institutional (OI)
- Rural Agricultural (RA)
- Planned Development (PD)
- Residential Performance (RP)
- Environmental Conservation (EC)
- Incorporated Areas (INCORP)
- Manufactured Home Park (MH)
- Residential Mixed (MF)



**ZONING MAP**





**Owner/Applicant:**  
**Janet Whitehead**

**Special Use Permit**  
**Revision**

**Sand Borrow Pit Mine**  
**Amendment**  
**to Term Condition**

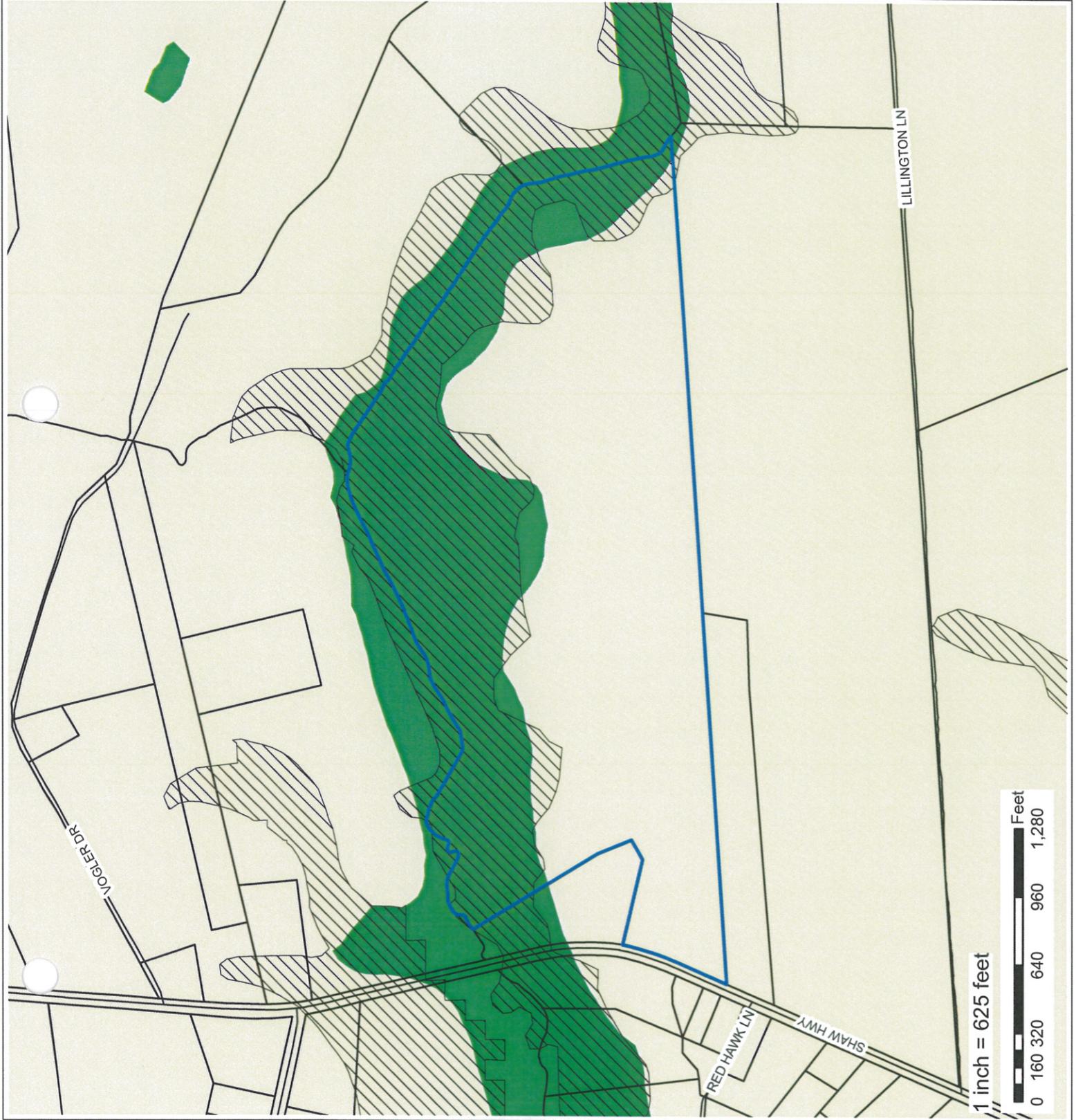
**Case # 10421 R**

**Legend**

-  Subject Property
-  Future Land Use (CAMA)
-  Conservation Area I
-  Conservation Area II
-  Transition Areas
-  Urban Growth Areas
-  Rural Clusters
-  Rural Areas



**CAMA (2005)**  
**LAND USE MAP**





**Owner/Applicant:**  
**Janet Whitehead**  
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**Revision**

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**to Term Condition**

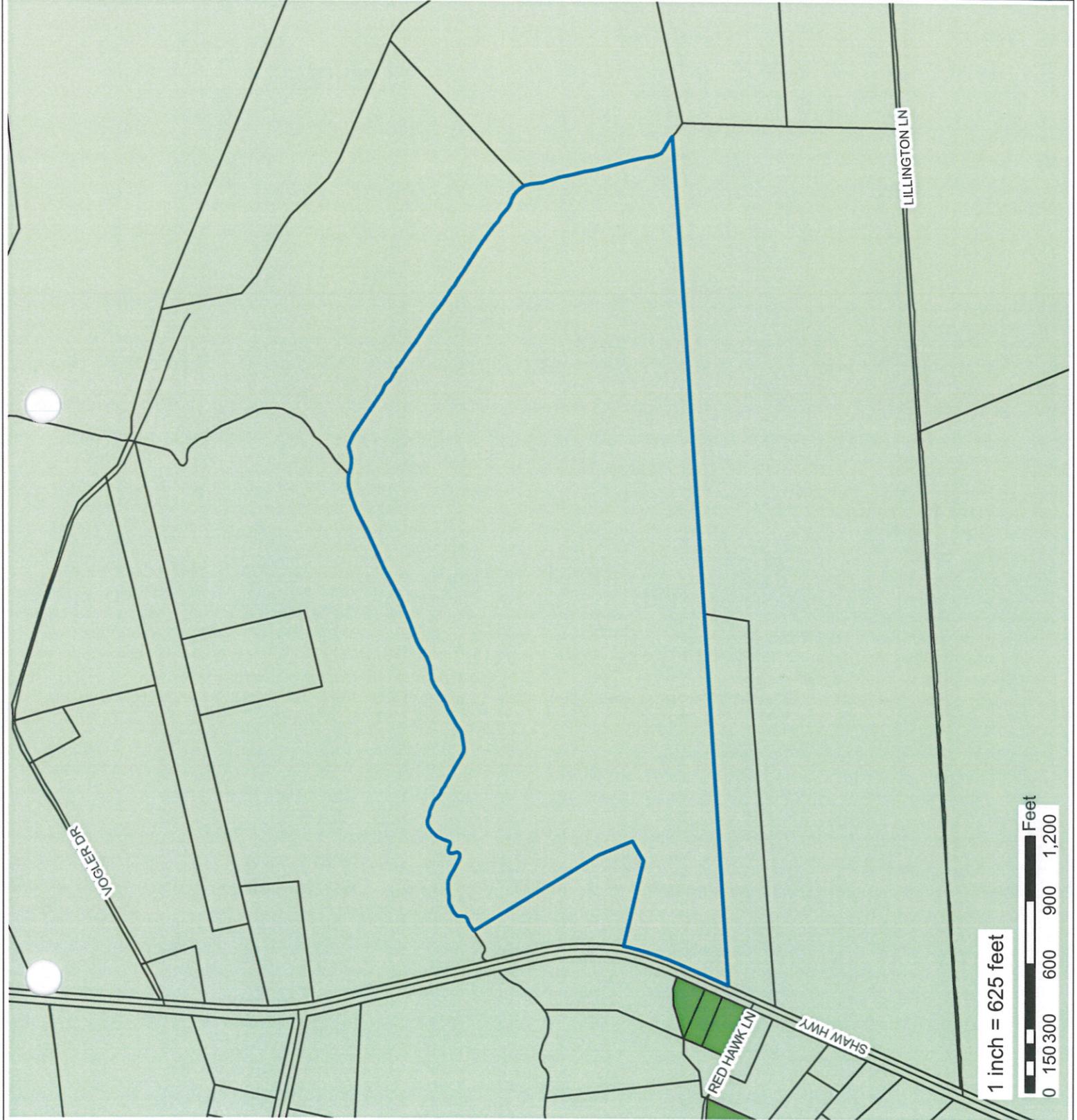
**Case # 10421 R**

**Legend**

-  Subject Property
- Future Land Use**
-  Conservation
-  Industrial
-  Mixed Use
-  Rural Growth
-  Suburban Growth



**2010**  
**Comprehensive**  
**Future Land Use**





**Owner/Applicant:  
Janet Whitehead**

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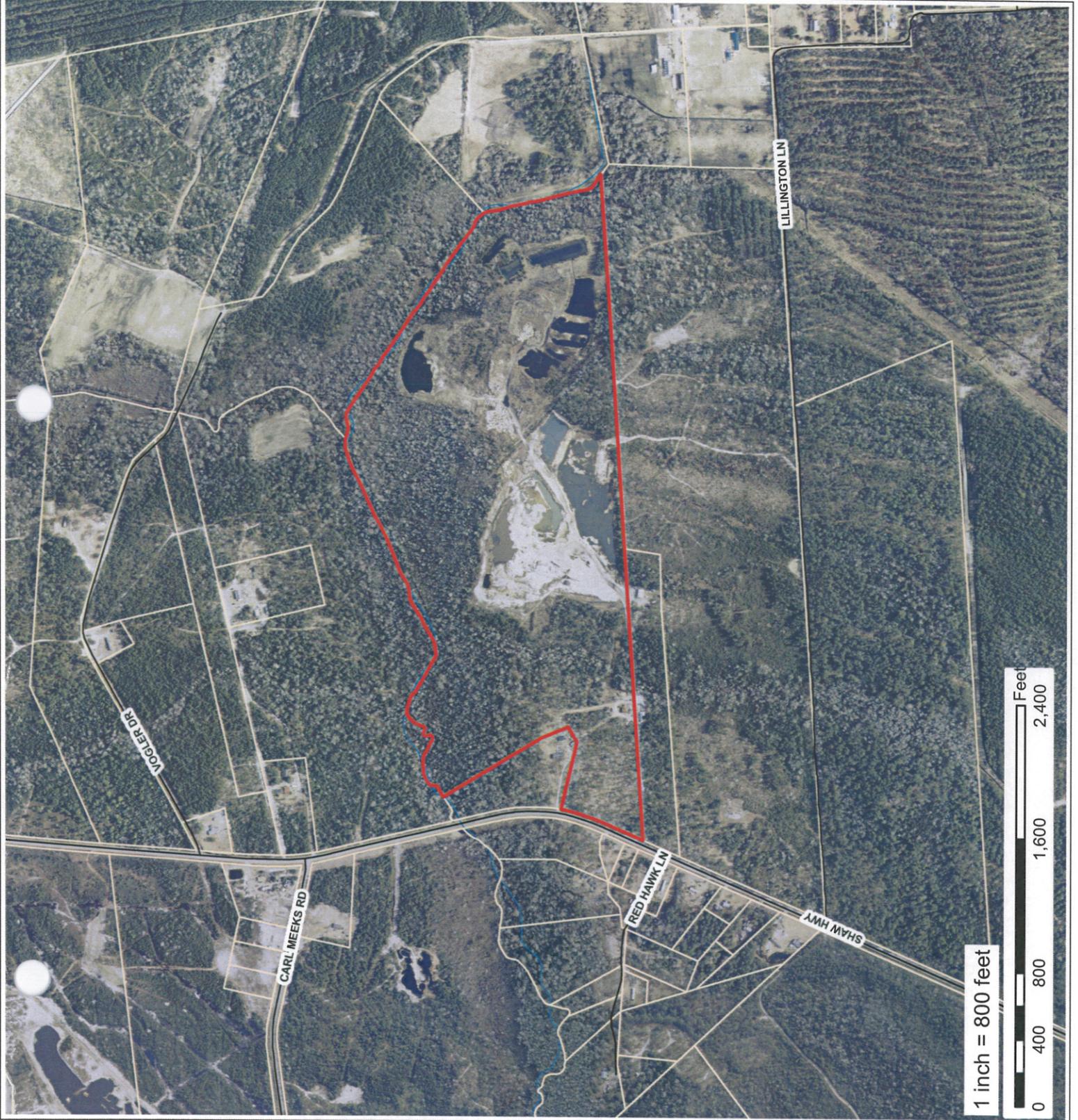
**Case # 10421 R**

**Legend**

 Subject Property



**Aerial Map**





**Owner/Applicant:**  
Janet Whitehead

**Special Use Permit**  
Revision

**Sand Borrow Pit Mine**  
Amendment  
to Term Condition

**Case # 10421 R**

- Subject Property**  
**Flood Hazard Areas**
-  Subject Property
  -  A
  -  AE
  -  AEFW
  -  SHADED X
  -  VE



**Flood Hazard Areas**

