



## REQUEST FOR BOARD ACTION

ITEM NO. 21

**DATE OF MEETING:** December 9, 2013

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

**SHORT TITLE:** Public Hearing and Resolution Requesting Approval of a Zoning Map Amendment for a Conditional Rezoning From RP, Residential Performance, to RA-CD, Rural Agricultural – Conditional District for the Use of a Nonmetallic Mineral Mining and Quarrying (NAICS 2123), Specifically for a Sand Mine.

**BACKGROUND:** EFS Properties, LLC, applicant and owner, is requesting approval of a Zoning Map Amendment for a Conditional Rezoning from RP, Residential Performance, to RA-CD, Rural Agricultural – Conditional District for the use of a Nonmetallic Mineral Mining and Quarrying (NAICS 2123) operation. The property is located along the north side of NC Highway 210, approximately 3,400 feet northeast of the intersection of Shaw Hwy and NC Hwy 210, Rocky Point. The property contains approximately 55.69 acres and may be identified as Pender County PIN 3255-78-6248-0000.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider the approval of a Conditional Rezoning for the use of a Nonmetallic Mineral Mining and Quarrying operation.

**RESOLUTION**

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

on December 9, 2013 the Pender County Board of Commissioners (approved, modified, denied) a Zoning Map Amendment for a Conditional Rezoning from RP, Residential Performance, to RA-CD, Rural Agricultural – Conditional District as described herein. The Chairman/County Manager is authorized to execute any documentation necessary to implement this resolution.

AMENDMENTS:

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

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

YEA VOTES: Brown \_\_\_\_\_ McCoy \_\_\_\_\_ Tate \_\_\_\_\_ Ward \_\_\_\_\_ Williams \_\_\_\_\_

\_\_\_\_\_  
George R. Brown, Chairman

12/09/2013  
Date

\_\_\_\_\_  
ATTEST

12/09/2013  
DATE

**PLANNING STAFF REPORT**  
**Zoning Map Amendment – Conditional Rezoning**

---

**SUMMARY:**

**Hearing Date:** November 12, 2013 – Planning Board  
December 9, 2013 – Board of Commissioners

**Case Number:** 11034 – Burton Mine

**Applicant:** EFS Properties, LLC

**Property Owner:** EFS Properties, LLC

**Rezoning Proposal:** EFS Properties, LLC, applicant and owner, is requesting approval of a Zoning Map Amendment for a Conditional Rezoning of 55.69 acres from RP, Residential Performance District, to RA – CD, Rural Agricultural – Conditional District for the use of a Nonmetallic Mineral Mining and Quarrying (NAICS 2123), specifically for a sand mine.

**Property Record Numbers, Acreage, and Location:** The subject property may be identified by Pender County PIN 3255-78-6248-000 and contains approximately 55.69 acres. The property is located along the north side of NC Highway 210, approximately 3,400 ft. northeast of the intersection of Shaw Hwy and NC Hwy 210, Rocky Point.

**Planning Board Recommendation:** The Pender County Planning Board, after holding a public hearing, voted 4-1 recommending approval of the application with the addition of Condition #9, prohibiting the dewatering of the excavation site utilizing pumping mechanisms, and; a revision to Condition #3, limiting the approval timeframe to 3 years from 10 years.

**Staff Recommendation:** The request is consistent with the 2010 Comprehensive Land Use Plan. A public meeting was held to address the potential impacts to adjacent property owners. Based off of comment from the community and the applicant, if mutually established conditions can be placed on the property to mitigate impacts, staff will recommend approval of the Conditional Rezoning request.

---

**DESCRIPTION:**

EFS Properties, LLC is requesting approval of a Zoning Map Amendment for a Conditional Rezoning of approximately 55.69 acres from RP, Residential Performance to RA, Rural Agricultural – Conditional District for the specified use of Nonmetallic Mining and Quarrying (NAICS 2123). The mine will be limited to extraction of sand material through an approximately 12.7 acre borrow pit.

According to the applicant's submitted site plan and supporting materials, the site will contain several areas associated with the sand excavation. These areas, as depicted within Table 1 below will contain areas for temporary sediment collection, stockpile areas, and the pit/excavation area. Adjacent to the excavation area, will contain an office/construction trailer for on-site staff when the mine site is active. Ingress/egress to the site will utilize a driveway connection to NC Highway 210, subject to review and approval from the NCDOT.

Table 1

CATEGORY	AFFECTED ACREAGE
Tailings/Sediment Ponds	0.86
Stockpiles	1.65
Wastepiles	0
Processing Area/Haul Roads	1.45
Mine Excavation	12.7
Other	0
<b>Total Disturbed Acreage</b>	<b>16.66</b>

It is anticipated that the mine excavation will commence and be active for approximately three years. The State Mining Application (Attachment 1) submitted is requesting a ten year approval, this is in part due to demand of the excavated material and is requested to allow for the full ten year state allowance. Excavation activities will be limited to a frontend loader and truck as there will be no explosives used on site. The maximum depth of the mine will be limited to twenty (20') feet below the natural ground level, which is a decrease from the applicant's original request of thirty (30') feet due in part to address community concerns of impacts that may be caused to wells.

The anticipated mine depth will require dewatering activities on site. The applicant has stated that this will not exceed 5,000 gallons per day (gpd). As outlined within Attachment 1, there are not any wells located within 500' of the excavation area. This is confirmed through statement provided by Pender County Utilities (November 28, 2012 phone conversation).

The project will incorporate a minimum of a 100' No Disturb Area surrounding the excavation area, stockpile, and temporary sediment trap. Any areas outside of the limits of disturbance will maintain the existing natural vegetation.

According to the Pender County Unified Development Ordinance, a public input meeting must be held with the adjacent property owners to discuss concerns and evaluate mitigating factors that may be conditioned with the application. On September 25, 2013, Mr. Charles Cazier, Professional Engineer, held the required meeting at the county administrative building, Pender County planning staff was present. The meeting was attended by four individuals in which the main topics brought up for discussion were: *effects to wells within the area; concerns of depth of mine; values of adjacent properties; and the intention of future site use.* As a resultant of the meeting and comments, the applicant has proposed to reduce the maximum mine depth from thirty (30') feet to twenty (20') feet. Also, it has been stated that the resultant of the mine will be a pond feature that could be utilized for future residential development on the tract.

As a criterion for a conditional rezoning request, mutually established conditions must be met between the applicant and the county for the project. Staff has met with the applicant to discuss the project and review proposed conditions. The applicant has verbally accepted these conditions and are proposed in this report (see item F) under EVALUATION).

---

## EVALUATION:

- A) **Public Notifications:** Public Notice of the proposal for map change has been advertised in the Pender-Topsail Post and Voice. Adjacent property owners have been given written notice of the request, as well as a sign placed near the subject property.
- B) **Existing Zoning in Area:** The property to the east, south and west of this proposal is zoned RP, Residential Performance District, properties to the north are zoned RA, Rural Agricultural District.
- C) **Existing Land Use in Area:** The existing land use in the area includes very low density residential to the east and south and vacant/timber properties along all other bordering sides.
- D) **2010 Comprehensive Land Use Plan Compliance:** This property is classified as Rural Growth. The Rural Growth classification is defined as areas of Pender County where urban services, i.e., public water and sewer services, are not expected to be extended within the planning horizon. Rural Growth areas are where preservation of agricultural operations is a primary concern and where conflicts between agricultural and non-agricultural uses are to be discouraged. Uses that would typically be allowed in Rural Growth areas include very low-density residential development (single-family site-built, modular, and manufactured homes) on one acre or greater size lots; agriculture, forestry, churches; very limited nonresidential uses - commercial, office, or public/institutional - meeting locational criteria. Locational criteria for non-residential uses in Rural Growth areas include frontage and access to a major State highway or secondary road, location at a major rural intersection, proximity to similar existing non-residential uses, and spatial separation from non-compatible uses such as existing residential development. The subject site does have direct access to NC Hwy 210 and other non-residential uses in the surrounding vicinity include timber/forestry management and other various non-residential uses within the immediate vicinity of NC Hwy 210 and Shaw Hwy.

The following goals and policies within this plan support the rezoning request and proposed use:

- a. Policy 1A.1.5: The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.
  - b. Policy 3A.1.3: Support the inclusion in the UDO of conditional zoning which provides more flexibility for the land owner/developer and the County to mutually agree upon specific development conditions and requirements. (Conditional zoning is a method that incorporates all the site-specific standards directly into the zoning district regulations and then applies that zoning district only to the property that is the subject of the rezoning petition.)
- E) **Unified Development Ordinance Compliance:** Article 3.4.4 of the Unified Development Ordinance provides for standards that shall be followed by the Planning Board before a favorable recommendation of approval for a conditional rezoning can be made. The applicant will be expected to furnish the results of the public input meeting prior to a public hearing being conducted.

**F) *Conditions To Approval of Petition:***

1. Maximum depth of the pit/excavation area will be limited to twenty (20') feet in depth measured from the natural ground level.
2. Hours of operation shall be from 7am to 7pm Monday through Saturday.
3. Mining/extraction activities on-site shall be limited to three (3) years.
4. Material mined/extracted shall be limited to sand only.
5. The project shall comply with all applicable requirements as outlined in the Pender County Unified Development Ordinance.
6. No junk, debris, trash, inoperable vehicles, recycled or salvaged materials shall be stored on the site.
7. All operations must follow federal, state, and local standards, regulations, ordinances, permits, statutes, and/or laws.
8. As shown on the site plan submitted for the project, a No Disturb Buffer of at least 100' shall be maintained around the permitted Pit/Excavation Area.
9. Dewatering of the excavation site utilizing pumping mechanisms shall be prohibited.

**3.4.4 Review Criteria for Conditional Rezoning**

When evaluating an application for the creation of a conditional zoning district, the Planning Board and Board of Commissioners shall consider the following:

1. The application's consistency to the general policies and objectives all adopted Land Use Plans and Unified Development Ordinance.
2. The potential impacts and/or benefits on the surrounding area, adjoining properties.
3. The report of results from the public input meeting.

**G) *Summary & Staff Recommendation:*** This proposal consists of a Zoning Map Amendment for a conditional rezoning of 55.69 acres from RP, Residential Performance, to RA-CD, Rural Agricultural – Conditional District, for the use of a Nonmetallic Mineral Mining and Quarrying (NAICS 2123), specifically for a sand mine. The request complies with the criteria set forth in Article 3.4.4 of the Unified Development Ordinance. The request is consistent with the 2010 Comprehensive Land Use Plan.

---

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

**Cape Fear Council of Governments RPO**

*The Cape Fear RPO has no comment, provided that the applicant complies with all requirements of NCDOT for driveway access.*

**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**

*No response.*

**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**

*A port a potty is a very temporary/emergency situation. If they are going to have a trailer with power and water, they need to fill out an application for a new septic system and, I am assuming, a well application.*

**Pender County Fire Marshal**

*No response.*

**Pender County Floodplain Manager**

*After speaking with John Gerber and Randy Mundt (NFIP contacts), it was determined that a flood study doesn't have to be done. It was concluded that as long as there wasn't a structure being placed within the Approximate A SFHA, a flood study wouldn't be necessary. However, a boundary survey with the delineated Approximate A zone will still need to be submitted and what development will occur in that area i.e. "stockpiling".*

**Pender County Parks and Recreation**

*No response.*

**Pender County Public Library**

*No response.*

**Pender County Public Utilities**

*No response other than cited reference through Mining Application. "A 28 November 2012 phone call, with Mr. Bob Forand, of the Pender County Public Utilities Department, confirmed that there are no wells within 500 linear feet of the excavation area".*

**Pender County Schools**

*No response.*

**Pender County Sheriff's Department**

*No response.*

**Pender County Soil and Water  
Conservation District**  
*Soil & Water sees no problem with request.*

**US Army Corps of Engineers**  
*No response.*

**Duke Energy Progress**  
*No response.*

**Wilmington Metropolitan Planning  
Organization**  
*No response.*

---

**Planning Board**

Motion: \_\_\_\_\_ McClammy \_\_\_\_\_ Seconded: \_\_\_\_\_ Edens \_\_\_\_\_

Approved: \_\_\_\_\_ X \_\_\_\_\_ Denied: \_\_\_\_\_ Unanimous: \_\_\_\_\_

Boney: Y Williams: Y Baker: Y Edens: Y Marshburn: \_\_\_ McClammy: Y Nalee: N

# Pender County Planning and Community Development

## Planning Division

805 S. Walker Street  
PO Box 1519  
Burgaw, NC 28425



Phone: 910-259-1202  
Fax: 910-259-1295  
[www.pendercountync.gov](http://www.pendercountync.gov)

## MINUTES

**Pender County Planning Board Meeting  
November 12, 2013 7:00 p.m.  
Pender County Public Meeting Room  
805 S. Walker Street, Burgaw, North Carolina**

**Call to Order:** Chairman Boney called the meeting to order at 7:05 pm.

**Roll Call:** Chairman Boney

Pender County Planning Board Members:

Boney:  Marshburn:  Baker:  Edens:  McClammy:  Nalee:  Williams:

- 1. Adoption of the Agenda:** Board member Williams made the motion to adopt the agenda; seconded by Board member McClammy. The vote was unanimous.
- 2. Adoption of the Minutes: (October 15, 2013)** Board member McClammy made the motion to adopt the minutes; seconded by Board member Williams. The vote was 5 in favor, Board member Baker abstained due to his absence at the October 15, 2013 meeting.
- 3. Public Comment:** Chairman Boney asked if there were any signups for public comment; due to no signups, Chairman Boney closed the floor to public comments and opened the floor for the public hearings.

*\*(Public Hearings Opened)\**

#### **4. Conditional Rezoning:**

EFS Properties, LLC, applicant and owner, requested approval of a Conditional Rezoning of one tract totaling 55.69 acres from RP, Residential Performance, to RA-CD, Rural Agricultural – Conditional District. The rezoning requests was for NAICS 2123 Nonmetallic Mineral Mining and Quarrying, specifically for a 12.7 acre sand mine and associated areas for stockpiling and haul roads totaling 16.66 acres. The property is located approximately 3,400 ft. northeast of the intersection of Shaw Hwy and NC 210, Rocky Point, and may be identified by PIN 3255-78-6248-0000. Director Breuer presented and gave background information for agenda item 4; Director Breuer stated that staff recommended approval with the listed conditions:

1. Maximum depth of the pit/excavation area will be limited to twenty (20') feet in depth measured from the natural ground level.
2. Hours of operation shall be from 7am to 7pm Monday through Saturday.
3. Mining/extraction activities on-site shall be limited to ten (10) years.
4. Material mined/extracted shall be limited to sand only.
5. The project shall comply with all applicable requirements as outlined in the Pender County Unified Development Ordinance.
6. No junk, debris, trash, inoperable vehicles, recycled or salvaged materials shall be stored on the site.

7. All operations must follow federal, state, and local standards, regulations, ordinances, permits, statutes, and/or laws.
8. As shown on the site plan submitted for the project, a No Disturb Buffer of at least 100' shall be maintained around the permitted Pit/Excavation Area.

Chairman Boney asked to hear from the applicant; Charles Cazier with Intercostal Engineering addressed the Board on behalf of the applicant; Mr. Cazier stated that rezoning request was needed in order to be allowed to mine, and the purpose of mining was to create a water feature for a future residential development on the site in which at that time the applicant would request for the site to be rezoned back to RA, Rural Agricultural; Mr. Cazier further explained that if the soil was left onsite the applicant would not have to apply for a mining permit but, since the soil would be hauled offsite, a mining permit was required. Board member Edens asked for clarification, that the intention was for a pond, for the future residential development; Mr. Cazier responded yes. Board member Edens asked was the dirt being moved for the purpose of selling it; Mr. Cazier responded yes. Director Breuer stated that he had questions for the applicant; Mr. Breuer asked Mr. Cazier if he could address the dewatering activities on the site, other activities that may occur, and if the dewatering activities will have any impacts on the adjacent streams, particularly Atkins' Creek; Mr. Cazier answered that the plan of construction was to provide a stock pile area on the side to excavate the soil and leave it on the land to dry, that they do not purpose to pump or provide well pointing of any type. Chairman Boney stated that he did not get a firm answer regarding Atkins' Creek; Director Breuer stated that he received a telephone call and that the caller's concern was if Atkins' Creek would be affected, or if any water would be disbursed to the creek because there has been issues with beaver damming and a history of backing up; Mr. Cazier responded that with their proposed development there is not a substantial amount of impervious area proposed, most of the runoff will be surface runoff, with the state regulations and their one hundred foot buffer of undisturbed area around the site, they did not anticipate any additional runoff from their site to the creek. Board member Williams asked that when the applicant finished the mining would the buffer still be a one hundred percent no disturb; Mr. Cazier answered that right now there were no plans for the back area; Mr. Williams stated that the current plans showed the buffer on the sides and the front also; Mr. Cazier responded that when the property reverted back to a subdivision of some sort, the lots would be located at the front; Mr. Williams asked if there was any anticipation of a buffer around the pond; Mr. Cazier answered no. Mr. Williams asked Director Breuer if the Board approved the presented rezoning would that mean there would or would not be buffers later on; Director Breuer answered that when a future application was submitted requesting a rezoning of the site, a public hearing would be once again held and the guidelines of the requested zoning district would have to be followed. Board member Edens asked that in regards to the Health Departments comments, what was the applicant planning to do as far as water and sewer; Mr. Cazier answered as far as the construction trailer, they were allowed to use a well for water and would provide a septic system. Board member Edens asked Director Breuer if Pender County required a Special Use permit for mining; Director Breuer explained the application process, which does include the obtaining the required Special Use permit and that the request before the Planning Board would also be presented to the Board of Commissioners in December. Board member Edens asked if the applicant if the mining permit had been issued; Mr. Cazier answered no that it was in process. Board member Baker asked that in regards to conditions one and four, he did not see any core samples provided in the applicant packet so how were the twenty foot depth and sand only restrictions determined; Mr. Cazier responded that soil samples have not been done at this time but if they dig and find something other than sand they will not go any deeper. Board member Baker commented that it seemed to him that if the restriction was included that somehow the applicant had to know that they would hit sand at twenty feet. Mr. Cazier commented that the sand only restriction was included by the Environmental Health staff that applied for the mining permit. Board member Baker asked if the digging went to twenty feet and there was no sand, then the digging would have to stop or else they would violate the permit; Mr. Cazier stated that his understanding of the sand requirement is that the only material abstracted and moved from the site was sand. Director Breuer stated for clarification, the twenty feet requirement was determined through mitigations between the applicant and the adjacent property owners due the

well concerns. Board member Baker referenced item number seven of the conditions and asked if there was another permit that was not included in the Board's packet; Director Breuer answered that the applicant would be required to obtain a State mining approval and advise the Board that a State mining approval does not supersede local regulations. Board member Baker asked what was the application in the packet that set the limit of digging to thirty feet and would it have to be revised to include the requirement of twenty feet as the limit; Director Breuer answered that it was the application submitted to the State and that the conditions or requirements determined by the local Boards and would become a regulatory check list item for the County as opposed to the State. Board member Baker asked when the public hearing would be held for the Board of Commissioners; Director Breuer answered December 9, 2013; Board member Baker asked when was the next Planning Board meeting; Director Breuer answered December 3, 2013. Board member Baker asked if the Board would be able to approve the minutes showing the actions the Planning Board took on this hearing prior to the Board of Commissioners' public hearing; Director Breuer answered yes. Chairman Boney opened the floor to those who signed up to speak on agenda item 4. Shirley Cherry, 9424 NC Hwy. 210, Rocky Point, explained that she owned an adjoining property, that her property was currently for sale and was concerned that the value of her home would be decreased and that she might not be able to rent her home until it sells, due to no one will want to live next to a mining operation. Gene Girard, 8905 NC Hwy. 210, Rocky Point, stated that his property was about one thousand yards from the stated site and that one of his biggest concerns was the depth of digging being thirty feet but, he realized now that it was changed to twenty feet; Mr. Girard stated that he felt that wells outside of the five hundred feet mark would be affected as well. Mr. Girard asked how much cubic yard of sand would be removed on over what period of time; Mr. Cazier answered that the proposed construction is for three years and the cubic yard of sand was listed in the state mining application. Mr. Girard asked how much would the traffic increase with the heavy trucks hauling the sand; Mr. Cazier stated that they had a traffic study performed by Davenport Engineering and according to their report there would be thirty five trips a day, five entering and three exiting at the a.m. peak, three entering and five exiting at the p.m. peak, using seventeen to eighteen trucks. Tom Nichols, 8845 NC Hwy. 210, Rocky Point, stated that he owned property about a thousand feet or so East from the said site and just wanted to go on record stating that he was against the rezoning request because he was not sure that the mining would not harm the wells in the area and that there has been no talk about what the mining company would do the alleviate any well problems if they do occur; Mr. Cazier responded in regards to the well concerns, the state permit requires that wells within five hundred feet of the site, Mr. Cazier reiterated that there would be no pumping or well pointing that the construction taking place would be the same as any other residential project but, since the sand was being removed from the site a mining permit was required. Mr. Cazier stated that he was aware of the property owners' concerns regarding the values of their homes that the applicant was simply trying to create something that would increase the value of the said property which could in turn increase the values of their properties. Lloyd Mares, 9948 NC Hwy. 210, stated that he owned property that adjoined the said site and that the applicant had stated that they would not be doing any pumping but, had anyone done any core samples or done any test holes; Mr. Cazier answered not at this time. Mr. Mares stated that he is a state certified well driller that he drills wells in the area all the time, which in the stated area rock can be hit in the range of seventeen to twenty- three feet, and once the rock is hit water will come up (water that is drinking water for a lot of the property owners) and once the water comes up they will have to start pumping so what will be done with that water. Mr. Cazier responded that all the water from the site would be relieved by gravity to the back of the site that digging could take place in the water table but, the soil would be left on the ground to dry out before being removed from the site. Mr. Mares commented that he could not understand how their process could work that in order for them to see what they were digging some pumping of dewatering would have to take place; Mr. Cazier responded that they have been told that no pumping will be needed. Director Breuer advised the Board that if they inclined to approve the request they could condition that no pumping take place on the site. Ms. Cherry re-approached the Board and stated that she just wanted to add in regards to rock in the area, her original well collapsed and it took three attempts to dig a new well due to all the rocks.

Mr. Girard re-approached the Board and commented that he could not believe what was going on. That the applicant was going to mine sand without a core sample; they did not know where the water table was and he wondered if they even knew what they were getting into that there was a lot of missing informant on the application explaining what they would be doing. Chairman Boney closed the session for public comment and asked if the Board had any comments. Board member Nalee asked what would actually be hauled away from the site and what water would supply the pond; Mr. Cazier responded that they would be willing to supply core samples at the Board of Commissioners' meeting, Director Breuer stated that it would be up to the Planning Board to make that recommendation. Board member Williams commented that he understood the request to be mining sand, that they did not want to mine rock and that there are many different grains and quality of sand that it could be field dirt or high quality mason sand that they haul off the site. Board member Williams explained the processes as he understood it and asked the applicant if the dirt would be contained while it was drying; Mr. Cazier answered yes. Board member Baker referenced a letter provided by Southern Environmental Group, Inc. that stated "no response will be interpreted as "no objection", by the DLR" and asked if there was any record known of where the DLR has said no response from the Technical Review Committee is accepted; Director Breuer responded that as a requirement of applying they have to notify a local jurisdiction, so the referenced letter was addressed to the Pender County Manager. Board member Baker asked if the "no response" comment meant for something other than the Technical Review Committee; Director Breuer responded that in this case Southern Environmental Group, Inc., applied to the state so it was just by virtue of copy that the County received the notification, when staff sent the project to the Technical Review Committee the Division of Land Resources, DLR did not respond with any comments, staff's concerns over land use issues bare no relevance to the DLR and staff has gone through this with numerous mine applications, so typically if the County receives a cover letter such as the one being discussed, the County will not provide any comments because the project has to abide by the County regulations to receive land use approval. Mr. Breuer further explained that an applicant could receive a permit from the state to mine without obtaining local approval however; they would have to obtain local approval if there are standards in place in order to proceed with their project. Board member Baker again commented that he was not sure who they were referring to when it stated in the letter that no comment would mean no objection and he interpreted it as meaning no response from the County Manager meant on objection from the County; Director Breuer responded that the only thing the County could respond back on would be Environmental factors and that a permit could not be denied or approved off of land use. Board member Baker and Director Breuer continued a brief discussion on the process of the applying for a mining permit through the state and local jurisdiction. Board member McClammy asked that on previous mines that were approved was there any history of imposing testing conditions or requirements on the site; Director Breuer responded that the Planning Board has not that this is the first mine case the Planning Board has heard that the Board of Commissioners have historically replicated the conditions stated in the state mining application, that the state will require the testing and moderating of wells in the location of the site. Director Breuer stated that he felt it would be appropriate for the Planning Board to require the applicant to provide a synopsis of what was in the pit area, prior to going before the Board of Commissioners so that the community would have a better understanding of exactly what the applicant is going to do and if the Planning Board wanted to add the condition it would be appropriate. Board member Nalee referenced the state application applied for by the applicant and commented that digging below the water table was checked yes and it stated that the applicant would be pumping water; Board member Nalee asked if a core sample would show where the water table is located and if someone could clarify if the process of pumping water would or would not take place; Mr. Cazier responded that a core sample will show the location of the water table and that the referenced application was submitted prior to the decision of no water pumping was made by the applicant. Board member Edens asked if there was still the potential to dig below the water table; Mr. Cazier answered yes. Board members held a brief discussion regarding setting a condition that would require the applicant to stop digging at a certain point before reaching the aquifer level. Through their discussion the Board decided that without a core sample report and someone with the knowledge of what the report

stated to advise them, they did not feel comfortable applying that type of condition. Board member McClammy asked if Director Breuer or the applicant could address that under federal or state regulations, if the application was approved, what would be the continuing monitoring or testing requirements imposed on mining operations over the life span of the operation; Director Breuer responded that as far as the County's requirements the applicant would be in compliance until the County was notified of violation, the County would not schedule an annual inspection of the site, DLR is there to do that, Director Breuer wished to defer to the applicant to address the testing and monitoring requirements. Board member McClammy requested to hear from the applicant if he had any information regarding the monitoring and testing requirements for the live span of the project; Mr. Cazier stated that they have committed to the mining operation to be completed in three years, that there would be weekly monitoring during the three years, due to rainy weather there may be daily monitoring. Board member McClammy asked what type of activities would take place while monitoring, would there be equipment onsite running test or would water samples be taken and sent for testing; Mr. Cazier answered that water samples would be taken. Board member McClammy asked if the water samples would be sent to an independent company with expertise in the field, for testing; Mr. Cazier answered yes. Board member McClammy asked that if there were found to be any unusual results, would the applicant be required based on Federal or State law to self-report to any regulatory agencies; Mr. Cazier answered that the applicant is required to keep records of any reports on site and are asked for and reviewed by DLR when they come to do inspections on the site. Board member McClammy gave a summary of Mr. Cazier's answers for clarity purposes, summarizing that there would be active monitoring of the water and any run off, the applicant would be required to self-report any discrepancies; Mr. Cazier stated that the applicant is required to keep a log of the monitoring and note any discrepancies; Board member McClammy asked if the records were available to a regulatory agency; Mr. Cazier answered yes. Board member Edens asked if there would be monitoring wells; Mr. Cazier answered that he did not believe there was. Board member McClammy stated that he would support adding to staff's eight conditions, a condition that would impose no water pumping on the site and in regards to the depth of digging the Board does not have the information to apply a condition. Chairman Boney stated that he would like to have a condition added regarding the depths of digging; Director Breuer reminded the Board that the twenty foot limit on digging was provided by the applicant and with all due respect that limited must have been set for the purpose of the amount need to be removed and that it was ten feet less than approved by the State. Chairman Boney thanked Director Breuer for his input and asked if anyone would like to give a motion.

Board member McClammy made a motion to approve the presented Conditional Rezoning with nine conditions; the eight that were included in the Board's packet and the ninth condition being no water pumping on site; seconded by Board member Edens with an amendment to condition three; Board member Edens requested to change the period of ten years to the applicant's noted three year construction time frame; Board member McClammy accepted Board member Edens' amendment to his motion. The vote was 5 to 1 in favor of the approval.

##### **5. Master Development Plan:**

James and Ellen Cornette, applicants and owners, requested approval of a Master Development Plan for a 16 lot Major Subdivision. The project is located along Williams Store Road (SR 1568) off Highway 17 in Hampstead. There is one tract associated with this request totaling 8.65 acres. The property is zoned RP, Residential Performance District, and may be identified by PIN 3293-61-3723-0000. Planner Ariail presented and gave background information for agenda item 5. Chairman Boney asked to hear from the applicants. Jim and Ellen Cornette, applicant and owners, addressed the Board, Mr. Cornette stated that they had obtained approval for their project several years ago but, due to the economic environment things set fallow for a couple of years. Mr. Cornette explained that they had committed to the home owners down Maready Branch that they would extend the road down to allow them access to the new road that they would construct, they had all their permits in hand, all their septic permits are regular conventional in ground septic systems, the soils are

fantastic, have done own internal wetlands review and there are no wetlands, so at this point they were seeking re-approval of the project. Chairman Boney asked Director Breuer what was staff's recommendation; Director Breuer answered to approve. Board member Edens asked what was the access easement on the bottom right of the site plan; Mrs. Cornett answered that by having that as an access easement it gives the potential of DOT taking it over and continuing the road to Tide Landing Court and gives road radius for turns. Chairman Boney asked if there were any sign-ups for public comment on agenda item 5. Scott Carter, 70 Maready Branch, Hampstead stated that he attended the last meeting when the project was originally approved and just wanted to make sure the plans had not changed. James Hansley Sr., adjoining property owner, asked where the location of the access easement would be because it ran across his property and he wanted to make sure it would not disturb his well area; Mr. Cornett gave some background information regarding the purchase of the easement from Mr. Hansley, and described the location and size of the easement. Board member McClammy asked Director Breuer if Williams Store road was currently a private road; Director Breuer answered that Williams Store road was a secondary road up to a certain point and that where the state maintenance ends it becomes a private access easement; that the ordinance would require the applicant to improve the access easement from where the state maintenance ends to entrance of their development and would have to be built to state standards but, could be maintained as a private road. Board member McClammy asked for clarification, for the point of where Williams Store road ended and the access easement began; Director Breuer, Mr. Carter and the applicant pointed out the location. Board member Williams asked if there was currently a house on the subject property; Mr. Cornette answered no, that there was a home at one time but, all that is left is the foundation. Chairman Boney asked if there were any other questions from anyone or did any Board member have a motion.

Board member Williams made a motion to approve the presented Master Development Plan; seconded by Board member Nalee. The vote was unanimous.

#### **6. Master Development Plan:**

Signature Pender County LMTD, applicant, on behalf of First Federal Bank, owner, requested the approval of a Master Development Plan for a 3-phase Mixed Use Subdivision. The request consists of developing 185 single family residential units and commercial square footage to be located on approximately ±143 acres. The proposed project is located along the south side of US Highway 17 between Champion Drive and Amanda Lane, Hampstead (formally known as the Topsail Greens Golf Course). The property is zoned PD, Planned Development District and may be identified as Pender County PIN 3273-16-3369-0000. Ashley Frank, Senior Planner, presented, gave background information for agenda item 6 and stated that Planning Staff recommended conditional approval of the Master Development Plan based on the provisions of the Pender County Unified Development Ordinance (UDO) § 3.5.4; as well as the Master Development Plan (MDP) contents being met as prescribed in § 6.1 and that staff would also recommend the Planning Board waive the Preliminary Plat public hearing as outlined in the UDO Section 2.1.1, Summary of Review Authority. Chairman Boney asked to hear from the applicant. Mike Pollok introduced himself and David Greer as the Developers of the project. Mr. Pollok thanked the Planning staff for their assistance with the subject project, as they moved forward to come up with a homogeneous use of the property to create a residential development. Mr. Pollok thanked the Board for their consideration. Chairman Boney asked to hear from anyone who signed up and wished to speak. Ron Maier, 911 Kontiki Ct., commented that he attended the Developer's open house meeting and have had good communications; since there is no longer going to be a golf course he believed the Developer's plan was the next best thing and that their proposed plan looks good but, the concerns of the Topsail Green's Community Association is the up keep of the areas of the golf course that was located on the subject property that runs through the Topsail Greens' community. Mr. Maier stated that the developers had promised them pristine conditions but, the Association had some concerns that they wanted to express. Mr. Maier stated the concerns as follows: property owners would be protect from

potential flooding issues, drainage system, safety of the access road, request that construction trucks not use the subject access road during the development process, and how the new storm water requirements will be met. George King Jr., 247 Doral Drive, stated that his concern was the easement off of Doral Drive and how it would be used; Ashley Frank, Senior Planner, answered that a pedestrian/bike path is being proposed to connect to Doral Drive and that in the case of an emergency Pender County EMS or Fire Officials could possibly utilize the access. Director Breuer stated that there had been numerous discussions with the applicant to dedicate that access as an emergency access and staff would like to see a condition as such placed on an approval of the requested Master Development Plan. Robert Dougan, 214 Champion Drive, stated that his concerns were: the management company having the finances to complete the project, the resurfacing of Topsail Green Road and deeding it to the Topsail Green's community, which he disagrees with transferring the deed, would construction trucks be using Champion Drive, which is a private road, would there be any up keep on the man-made ponds, and the plans show a future park which is adjacent to his property and he would like there be some type of buffer between his property and the park. Jeff Morris, applicant for a project north of the subject project, asked for clarification regarding staff's proposed connectivity between the two developments; Ashley Frank, Senior Planner, clarified by pointing out on the map where the options for connectivity would be to create a viable connection. Mr. Morris and Mrs. Frank held a brief discussion regarding the connectivity that he proposed on his application. Chairman Boney closed the public comment session due to there being no more sign ups and asked the Board if anyone had questions at this time. Board member Baker commented that he was missing any evaluations from the School Board regarding the impact of projected students, since they have already stated that they are overcrowded in some of the grade schools and is concerned that no comments were received from the School Board regarding that side of the project. Board member Baker asked if there were any way to go back and ask the School Board and ask them what they thought the additional loading of the school system would be with these projects because he felt it should be presented for the Planning Board to review before making a decision; Ashley Frank, Senior Planner, responded that staff had attempted to contact Pender County Schools three different times and the comment submitted was all that was provided by the school system, Director Breuer added that staff meet with the Facilities Director, to elude to the study or plan that they are preparing and staff had meet with them in the past to try and give them a picture of what was in the future for projects, staff held these meetings with the hope of receiving some feedback which to this date staff has not received any. Board member Williams made the comment that there were no regulations in the State of North Carolina that would allow the County or State to impose any type of restriction on a piece of property because of the impacts on a school system, hospital system or anything like that, so staff or the Board could gather as much information as they wanted or could but, it should not impact the Board's decision on whether land is worthy of a subdivision or not. Director Breuer stated that the only allowance that the County does have would be to require potential land purchase, set aside land for the County to purchase from the developer, if it was indicated on the plan that there was a future public facility planned for that site. Board member Baker asked what provisions if any are there to prevent the traffic from the development going thru Topsail Greens via Topsail Green Drive, which is a private road; Ashley Frank, Senior Planner, responded that staff had recommended conditions for the Board to review prior to a vote on the proposal; one conditions would be for the Developer to clarify what their intention was for Topsail Green Drive and if they are purposing connection, what type of connection. Staff discussed a few examples of the type of conditions the Board could place on the proposal. Board member Baker commented that if the roads were snubbed or blocked off it would be a lot more forceful than just putting a requirement that they not use the roads; Director Breuer stated that it could be accomplished either way. Board member Baker commented that in regards to Doral Drive, if emergency vehicles could use it , what is to prevent private vehicles from using it as well; Director Breuer responded that hopefully the design and visual signs stating pedestrian access only would prevent private vehicles using it. Board member McClammy asked if staff could summarize the recommended conditions that have been mentioned; Ashley Frank, Senior Planner explained that the conditions had been discussed with the applicant, with the exception of ones that were requested

during Public Comment; Mrs. Frank reviewed the list of recommended conditions as follows; future connection to the proposed Cardinal Point, Master Development Plan, connection to the current vacant tract known as the Capstone property, the access alley would have to be constructed to DOT standards, the Developers would have to clarify the intent of Topsail Greens Drive, all areas shown as future development would have to be presented to the Planning Board under the existing ordinance at the time of the application submittal, required to follow the Flood study recommendations, connection to Doral Drive which staff recommends a Multipurpose path, limiting construction traffic on Champion Drive, and a buffer between the future park and residents. Director Breuer stated that he would like for the applicant to discuss what they propose for controlling the construction traffic; Mr. Pollock stated that there had been numerous conversations with the association regarding the road; at this point the bank owns the road, through the conversations the applicant has agreed to limited the construction traffic so that the neighborhood is not encumbered by it, that ideally they would like to limit their presence by using Sloop Point Road. Mr. Dougan stated that he did not want any construction traffic on Champion Road that they had to maintain the road since it was private and felt there should be some condition requiring the applicant to maintain the property for Phase 2 and 3 while constructing Phase 1. Michael Viteki, representative for Capstone Property, stated that for clarity on the proposed connection, that it is not currently an actual road. Brooke Webber, resident that resides on Sloop Point Road, stated that she was concerned about Sloop Point Road being the only access for the new development and asked that there be a condition requiring another access point; Mrs. Webber stated that she loved the idea of a multiuse path and would like to see a condition requiring a cross walk for the children walking or riding their bikes to and from the school. Mr. Maier presented pictures of the ponds on the golf course that are dried up and asked if there could be a condition to require that the existing ponds be maintained. Chairman Boney closed the floor to public comments and opened the floor for the Board's discussion. Director Breuer requested that the Board diligently review the conditions prior to making any motions. Chairman Boney asked the Board their views regarding the issue of construction traffic; Board member Edens asked to see a map that showed the proposed access points more clearly; Ashley Frank, Senior Planner, provided the Board with the requested map. Board member Edens asked if it would be feasible for all access to be off of Sloop Point Road; Director Breuer stated that it would be against the intent of the Planned Development Zoning District. Board member Baker suggested that any motion include the statement that there would be only one entrance and one exit from Oaks at Sloop Point and all other streets in that area would be snubbed out so that they do not connect with any other adjacent streets and the developer could come back to present a proposal to open the snubbed streets, that way traffic would be prevented from using those private streets. Mr. Tomlinson, resident of Friendly Lane, asked if the utility easement on Friendly Lane be utilized for construction traffic, the applicant stated that they had no plans to use Friendly Lane or the utility easement for construction traffic. The Board held a discussion regarding how to form a motion to include the suggested recommendations. The Board further discussed staff's recommendations, and if there was a way to condition the type of vehicles that could not access the private roads. Board member Baker made a motion to approve the presented Master Development Plan with the condition of one entrance and one exit from the Oaks on Sloop Point onto Sloop Point Road and all other streets in that development be snubbed out until some future request for connection; the motion died due to lack of a seconded, Board Edens stated that she felt there was more discussion needed regarding all of staff's recommended conditions, that the other conditions were being overlooked due to the concerns over construction traffic. Chairman Boney requested that the Board discuss their views regarding the other conditions. Board member Edens suggested that the Board let staff review the recommended conditions. Director Breuer stated the following conditions:

1. Provide connection to adjacent property to future development to the northwest (documented under case #11067 submitted for the December Planning Board meeting).
2. Provide connection to identified "Capstone Property"
3. Allow for "alternative" design for alleyway as shown on sheet C-3.4
4. Allow for emergency access along the connection to Doral Drive

The Board held a brief discussion to review their thoughts on staff's recommended conditions.

Board member McClammy made a motion to approve the presented Master Development Plan with the stated four conditions recommended by staff; seconded by Board member Edens. The vote was unanimous.

Chairman Boney called for a five minute recess at 10:15 pm and called the meeting back to order at 10:20 pm.

#### **7. Master Development Plan:**

Avendale Development, LLC, applicant and owner, requested the approval of a revision to a previously approved Master Development Plan and Preliminary Plat, specifically amending Phase 4 of the Avendale Residential Subdivision. The request consists of adding an additional 24 single family units to the previously approved 35 single family units and the removal of 48 proposed townhome sites located within Phase 4. This request will decrease the total development density from the originally approved 250 units to 211 units. The project is located along the east side of NC Highway 210 south of Harrison Creek and west of Cross Creek Subdivision. The property is zoned PD, Planned Development District and may be identified as Pender County PIN 4214-12-8251-0000. Ashley Frank, Senior Planner, presented and gave background information for agenda item 7. Chairman Boney requested to hear from the applicant. Jimmy Fentress, Stroud Engineering, stated that he was the author of the plan presented seven years ago, included in the plan was eighty or so townhomes; there has been no market for multifamily, townhome types and the applicant would rather move forward with single family homes. Board member Williams asked if the proposed lot sizes were compatible with the existing lots; Mr. Fentress answered they were smaller than the lots in the existing phases. The Board held a brief discussion on the types of homes that would be built.

Board member Williams made a motion to approve the presented Master Development Plan; seconded by Board member Edens. The vote was unanimous.

*\*(Public Hearings Closed)\**

#### **8. Discussion Items:**

##### **a. Planning Staff Items:**

- i. Flood Damage Prevention Ordinance – Director Breuer referenced the memo given to the Board prior to the meeting and explained to the Board that staff was working on a text amendment to present to the Board, that would remove flood standards out of the UDO and create a stand-alone Flood Damage Prevention Ordinance; and would like some feedback from the Board. Director Breuer also stated that staff would need a recommendation from the Board on whether to allow or not to allow mobile homes in the floodway. Board member Edens asked for the definition of a floodway; Director Breuer provided the definition. The Board held a brief discussion of various examples of what would be considered floodways. The Board recommended that staff move forward with the text amendment and bring back to the Board for approval.
- ii. Historically Significant Sites – Director Breuer stated that staff was requesting the Board’s recommendation for staff to move forward with a text amendment to allow flexibility for parking and landscaping requirements for Historically Significant Sites. Director Breuer explained in detail the reason for the request. The Board recommended that staff move forward with the text amendment and bring back to the Board for approval.
- iii. Director Breuer Thanked the Board for their time and Board member Nalee for their tour trip around the Eastern side of the County on Friday, November 8, 2013.

##### **b. Planning Board Members Items:**

Chairman Boney reminded the Board of Maple Hill Small Area Plan Community Meeting that would take place on Wednesday, November 13, 2013 from 5:00 pm until 6:30 pm.

**9. Next Meeting:** Scheduled for December 3, 2013, which will include a Work Session that will start at 6:00 pm.

**10. Adjournment:** The meeting adjourned at 11:00 pm.

# Pender County Planning and Community Development

## Planning Division

805 S. Walker Street  
PO Box 1519  
Burgaw, NC 28425



Phone: 910-259-1202  
Fax: 910-259-1295  
[www.pendercountync.gov](http://www.pendercountync.gov)

## **CONDITIONAL REZONING**

### **Intent**

- A. Conditional zoning districts hereby included are to allow for the consideration of certain uses that are permitted uses in the underlying zoning district but due to their nature may not be appropriate for a particular location.
- B. A conditional zoning district is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses on small and large scale projects.
- C. Although, it is not intended to be used for speculative purposes, a conditional zoning district applicant may include as part of the application, a list of uses which will not be developed on the property.
- D. All uses listed as part of any application must be in the same format and description as listed in the Table of Permitted Uses.
- E. The following zoning district categories are approved to be assigned conditional zoning districts: PD, RP, RM, GB, OI, IT, IG (Reference Article 4 for Zoning District Descriptions).

### **Application**

Except as provided herein, all applications to establish a conditional zoning district must follow the regulations prescribed in this section in addition to the standard rezoning process as described in Section 3.3, Rezoning of this Ordinance.

### **Public Input Meeting**

Prior to scheduling a public hearing on the rezoning application, **the applicant must conduct one public input meeting and file a report of the results with the Administrator.**

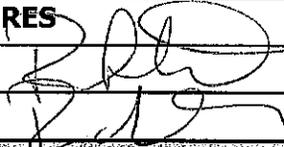
1. The report for the public hearing will include a summary of the public input meeting.
2. The applicant shall mail a notice for the public input meeting to adjoining property owners not less than ten (10) days prior to the scheduled meeting.
3. The notice shall include the time, date and location of the meeting as well as a description of the proposal.
4. The applicant's report of the meeting shall include:
  - ✓ a. A copy of the letter announcing the meeting.
  - ✓ b. A list of adjoining property owners contacted.
  - ✓ c. An attendance roster.
  - d. A summary of the issues discussed.
  - e. The results of the meeting including changes to the project's proposal, if any.

### **Review**

When evaluating an application for the creation of a conditional zoning district, the Planning Board and Board of Commissioners shall consider the following:

1. The application's consistency to the general policies and objectives of the adopted Land Use Plan.
2. The potential impacts and/or benefits on the surrounding area, adjoining properties.
3. The report of results from the public input meeting.

## APPLICATION FOR CONDITIONAL REZONING

THIS SECTION FOR OFFICE USE			
Application No.	ZMA-CD	Date	
Application Fee	\$	Receipt No.	
Pre-Application Conference		Hearing Date	
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	EFS Properties, LLC	Owner's Name:	EFS Properties, LLC
Applicant's Address:	211 North Fifth St	Owner's Address:	211 North Fifth St
City, State, & Zip	Wilmington, NC 28401	City, State, & Zip	Wilmington, NC 28401
Phone Number:	910-520-3083	Phone Number:	910-520-3083
Legal relationship of applicant to land owner:			
<b>SECTION 2: PROJECT INFORMATION</b>			
Property Identification Number (PIN):	3255-78-6248-0000	Total property acreage:	55.69
Current Zoning District:	RP - Residential Performance	Proposed Zoning District:	RA - Rural Agricultural
Project Address or Location:	Hwy 210, Holly Township		
<b>Proposed Uses to be Considered (Include NAICS Code):</b>			
Mining - NAICS Code: <del>423520</del> 2123			
<b>Proposed Uses to be Eliminated from Consideration (Include NAICS Code):</b>			
<b>SECTION 3: SIGNATURES</b>			
Applicant's Signature		Date:	9-25-13
Owner's Signature		Date:	9-25-13
<b>NOTICE TO APPLICANT</b>			
<ol style="list-style-type: none"> <li>1. Applicant must also submit the information described on the Rezoning Checklist.</li> <li>2. Applicant or agent authorized in writing must attend the public hearing.</li> <li>3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Planning Board or other authorized person agrees to table or delay the hearing.</li> <li>4. All fees are non-refundable.</li> <li>5. A complete application packet must be submitted prior to the deadline in order to be placed on the next Planning Board Agenda.</li> </ol>			

## Conditional (Zoning Map) Amendment Checklist

<input checked="" type="checkbox"/>	Signed application form
<input checked="" type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	A list of names and addresses, as obtained from the county tax listings & tax abstract, all adjacent property owners, including property owners directly across any road or road easement, & owners of the property under consideration for rezoning.
<input checked="" type="checkbox"/>	Two (2) business size envelopes legibly addressed with <b>first class</b> postage for each of the adjacent and abutting property owners on the above list.
<input checked="" type="checkbox"/>	Accurate legal description or a map drawn to scale showing the property boundaries that are to be rezoned, in sufficient detail to for the rezoning to be located on the Official Zoning Map.
<input checked="" type="checkbox"/>	12 (11"x17") map copies to be distributed to the Planning Board
<input checked="" type="checkbox"/>	20 (11"x17") map copies to be distributed to the Board of Commissioners
<input checked="" type="checkbox"/>	Digital (.pdf) submission of all application materials <span style="float: right;">EMAIL</span>
<input checked="" type="checkbox"/>	Public Input Meeting Report (Section 3.4.3 or see Public Input Meeting on the first page of this application)
<input checked="" type="checkbox"/>	A description and/or statement of the present and proposed zoning regulation or district boundary and stating why the request is being made and any information that is pertinent to the case. If the owner and applicant are different, the letter must be signed by both parties.
<input checked="" type="checkbox"/>	All applications which specify an intended use must include a generalized site development plan drawn to a suitable scale, supporting information and text which specifies the use or uses intended for the property and any development standards to be approved concurrently with the rezoning application
<input checked="" type="checkbox"/>	<p>A generalized site development plan shall include the following items:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> A vicinity map drawn to a suitable scale which illustrates adjacent or nearby roadways, railroads, waterways &amp; public facilities.</li> <li><input checked="" type="checkbox"/> A (metes and bounds) boundary of the parcel or portion of the parcel to be rezoned and developed.</li> <li><input checked="" type="checkbox"/> All existing easements, reservations and rights of way.</li> <li><input checked="" type="checkbox"/> Delineation of all Areas of Environmental Concern including but not limited to federal jurisdictional wetlands.</li> <li><input checked="" type="checkbox"/> For residential uses, the number of units, heights and a generalized location. For non-residential uses, the height, approximate footprint and location of all structures.</li> <li><input checked="" type="checkbox"/> If a known use is proposed: Traffic impact report, parking and circulation plans illustrating dimensions, intersections and typical cross sections.</li> <li><input checked="" type="checkbox"/> All proposed setbacks, buffers, screening and landscaping.</li> <li><input checked="" type="checkbox"/> Phasing.</li> <li><input checked="" type="checkbox"/> Signage.</li> <li><input checked="" type="checkbox"/> Outdoor lighting.</li> <li><input checked="" type="checkbox"/> Current zoning district designation and current land use status.</li> <li><input type="checkbox"/> Other information deemed necessary by the Administrator, Planning Board, or Board of Commissioners, including but not limited to a Traffic Impact Analysis or other report from a subject matter expert.</li> </ul>

### Office Use Only

<b>ZMA-CD Fees:</b> (\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter)				<b>Total Fee Calculation:</b> \$ 1010.00			
<b>Attachments Included with Application: (Please include # of copies)</b>							
CD /other digital version	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Plan Sets	# of large	# of 11X17	Other documents/Reports	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	
<b>Payment Method:</b>	<input type="checkbox"/> Cash \$ _____	<b>Credit Card:</b> <input type="checkbox"/> Master Card <input type="checkbox"/> Visa			<b>Check:</b> <input checked="" type="checkbox"/> Check # 1116		
<b>Application received by:</b>					<b>Date:</b> 9/30/2013		
<b>Application completeness approved by:</b>					<b>Date:</b> 9/30/2013		
Dates scheduled for public hearing		<input checked="" type="checkbox"/> <b>Planning Board:</b> 11/12/2013			<input checked="" type="checkbox"/> <b>Board of Commissioners:</b> 12/9/2013		

**Print Form**

## ***Statement of Present and Proposed Zoning***

Burton Mine  
Pender County, NC

The tract of land "Burton Mine" located on Hwy 210 in Pender County with PID # 3255-78-6248-0000 is currently zoned as RP-Residential Performance. The Residential Performance District is intended to allow a variety of residential uses and densities and also limited commercial activities as well as agritourism. Existing or new agricultural and farm uses shall be allowed on undeveloped land prior to development.

The proposed zoning for this property is RA-Rural Agricultural. The Rural Agricultural District is intended to accommodate non-residential agricultural uses and very low density residential development (minimum of 1 du/ac), as well as limited non-residential uses, in rural areas adjacent to agricultural operations. Development in this District should rely predominantly on individual wells and septic tank systems for domestic water supply and sewage disposal.

The adjacent properties to the East, West and across Hwy 210 to the South are currently zoned RP. The adjacent property running along the entire North side of the property is currently zoned RA. The rezoning to the RACD district is proposed because the intended use (of Mining) is not permitted in the existing RP zoning district. Mining is a permitted use in the RA zoning district. The rezoning of this property will maintain the continuity with the current zoning of the adjacent properties to the North of the Burton Mine property. The proposed mining of this site is thought to be for 3.0 years. Hours of operation are to be no earlier than 7 am and no later than 7 pm. Buffers between adjacent properties are proposed at no less than 100 ft.

Southern Environmental Group, Inc.

5315 South College Road, Suite E · Wilmington, North Carolina 28412

910.452.2711 · Fax: 910.452.2899 · [office@segi.us](mailto:office@segi.us)

[www.segi.us](http://www.segi.us)

Attachment 1

7 October 2013

US Certified Mail: 7012 1640 0000 9704 6601

[SEGi Project #: 06-010.01]

Mr. Mickey Duvall  
Pender County Administration  
PO BOX 5  
Burgaw, NC 28425

**RE: Notification of Request for New Mining Permit  
EFS Properties, LLC  
Burton Tract, Holly Township, Pender County**

Dear Mr. Duvall,

Southern Environmental Group, Inc. (SEGi) has been retained by EFS Properties, LLC ("Applicant"), to proceed with requesting a new Mining Permit for a site located off Hwy 210, in the Holly Township. The Applicant proposes to excavate approximately 12.7 acres and is required to secure a Division of Land Resources (DLR) Mining Permit.

According to NCGS 74-50(b1), the Permittee is required to notify the chief administrative officer of the county or municipality, in which any part of the permitted area is located. To assist you in your decision making process, the following documents have been included with this correspondence:

1. Vicinity Map
2. Copy of the Mining Application
3. Copy of proposed Mining Plan

Page 16, of the Mining Permit Application, provides instructions for submitting comments on the proposed work. For information on the mining permit application review process, please contact the Ms. Judy Wehner, with the DLR Mining Program, at (919) 707-9220. The DLR will consider any relevant written comments/documentation, within the provisions of the Mining Act of 1971, throughout the application review process or until a final decision is made on the application. Please note, no response will be interpreted as "no objection", by the DLR. If you have questions about the methods used during the mining process, please feel free to contact me by phone, at 910.452.2711 or via email, at [dlutheran@segi.us](mailto:dlutheran@segi.us).

Sincerely,

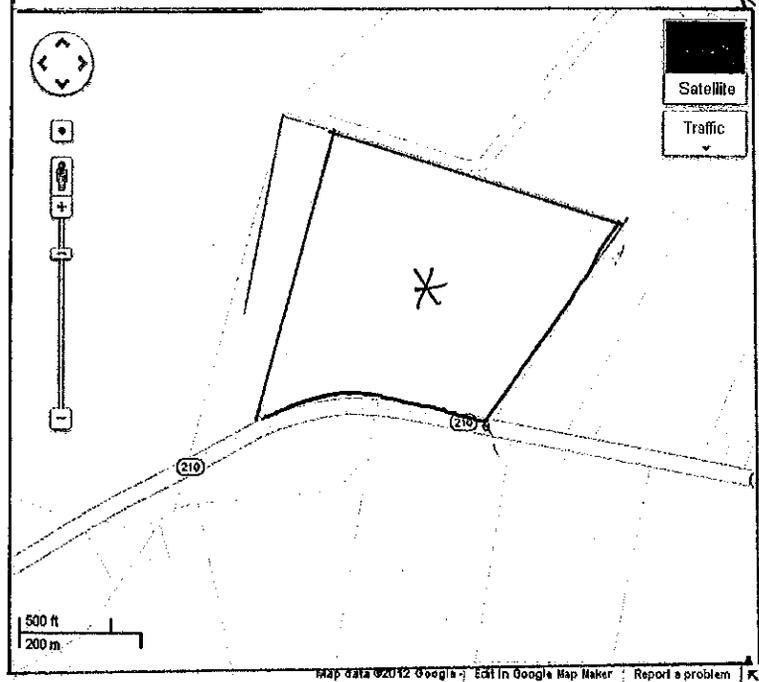
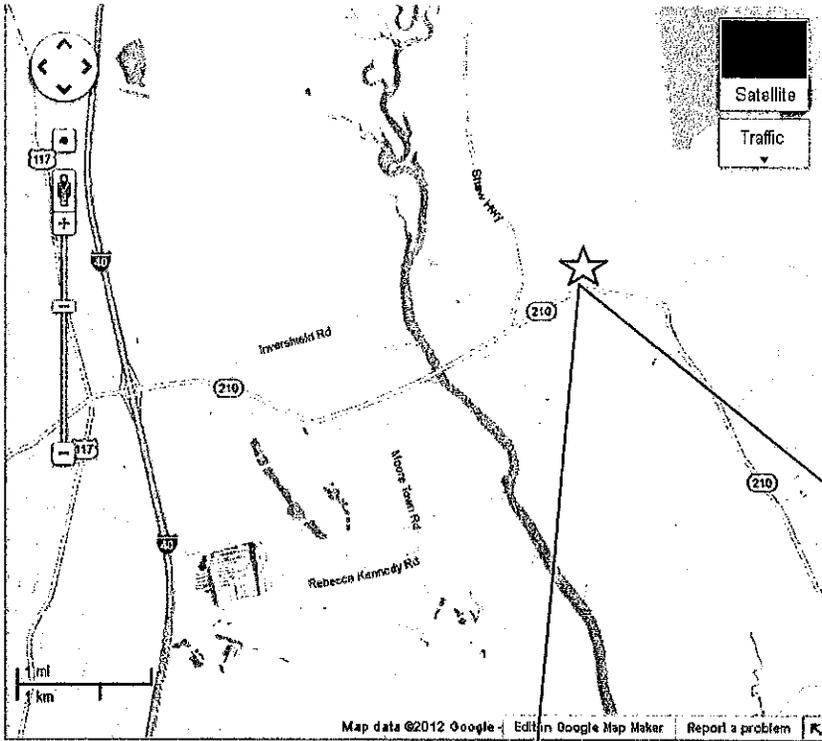


Dana A. Lutheran  
Project Manager

Enclosures (3)

RECEIVED OCT 15 2013

Vicinity Map – Burton Tract, Jack Stocks (12-040.01)



# **NORTH CAROLINA MINING PERMIT APPLICATION**

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

**1612 Mail Service Center  
Raleigh, North Carolina 27699-1612  
(919) 707-9220**

Attachment 1  
Burton Mine

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT  
AND NATURAL RESOURCES

LAND QUALITY SECTION

APPLICATION FOR A MINING PERMIT

(PLEASE PRINT OR TYPE)

- Name of Mine BURTON MINE County PENDER  
River Basin NORTHEAST CAPE FEAR  
Latitude (decimal degrees to four places) 34.4528 (See Appendix A)  
Longitude (decimal degrees to four places) -77.8142
- Name of Applicant\* EFS PROPERTIES LLC (See appendix B)
- Permanent address for receipt of official mail\* 211 NORTH FIFTH STREET, WILMINGTON NC 28401  
Telephone (910) 520-3083 Alternate No. ( ) \_\_\_\_\_
- Mine Office Address SAME AS ABOVE  
Telephone ( ) \_\_\_\_\_
- Mine Manager MR. LUCIEN ELLISON

We hereby certify that all details contained in this Permit Application are true and correct to the best of our knowledge. We fully understand that any willful misrepresentation of facts will be cause for permit revocation.

\*\*\*Signature D. Lutheran for Lucien Ellison Date 1 Oct 2013  
Print Name Dana Lutheran  
Title SECI Project mgr.

\* This will be the name that the mining permit will be issued to and the name that must be indicated on the reclamation bond (security) that corresponds to this site.

\*\* The Land Quality Section must be notified of any changes in the permanent address or telephone number.

\*\*\* Signature of company officer required.

G.S. 74-51 provides that the Department shall grant or deny an application for a permit within 60 days of receipt of a complete application or, if a public hearing is held, within 30 days following the hearing and the filing of any supplemental information required by the Department. All questions must be addressed and all required maps provided before this application can be considered complete. Attach additional sheets as needed.

**NOTE:** All of the following questions must be thoroughly answered regarding your mining operation for the intended life of the mine. All responses must be clearly conveyed on a corresponding, detailed mine map.

**Attachment 1  
Burton Mine**

**A. GENERAL CHARACTERISTICS OF THE MINE**

1. Answer all of the following that apply:

If this is an application for a **NEW** permit, indicate the total acreage at the site to be covered by the permit (this is the acreage that the "new permit" fee will be based upon): 20.82

Of this acreage, how much is owned and how much is leased? Acres owned: 20.82  
Acres leased: \_\_\_\_\_ Property owner if leased: \_\_\_\_\_

If this is an application for **RENEWAL** of a mining permit, indicate the mining permit number and the total (overall) acreage covered by the existing permit: Mining Permit No.: \_\_\_\_\_  
Total permitted acreage (this is the acreage that the "renewal" fee will be based upon): \_\_\_\_\_

If this is an application for a **MODIFICATION** to a mining permit, indicate the mining permit number and the total (overall) acreage covered by the existing permit.  
Mining Permit No.: \_\_\_\_\_ Total permitted acreage: \_\_\_\_\_

Does the modification involve acreage within the previously approved permitted boundary?  
Yes  No . If yes, indicate the acreage to be covered by this modification (this is the acreage that the "major modification" fee will be based upon): \_\_\_\_\_

Does the modification involve acreage outside the previously approved permitted boundary?  
Yes  No . If yes, indicate the additional acreage to be covered by this modification:  
(NOTE: you must complete all of Section F. of this application form entitled Notification of Adjoining Landowners).

Of this acreage to be added to the permit, will any portion of this acreage be affected (i.e.: disturbed, ground cover removed) by the mining operation? Yes  No  (If no, a "minor modification" fee of \$100.00 is required, despite the "undisturbed" acreage to be added). If yes, indicate the acreage to be affected within the acreage to be added to the permit (the total acreage to be added to the permit is the acreage that the "major modification" fee will be based upon): \_\_\_\_\_

If this is an application for **TRANSFER** of a mining permit, indicate the mining permit number and the total (overall) acreage covered by the existing permit.  
Mining Permit No.: \_\_\_\_\_ Total permitted acreage: \_\_\_\_\_

**SEE THE FEE SCHEDULE AT THE END OF THIS FORM FOR THE PROPER FEE AMOUNT TO BE PAID FOR THE REQUESTED PERMIT ACTION(S) AND CORRESPONDING ACREAGE NOTED ABOVE**

2. Name of all materials mined: SAND

3. Mining method:

Hydraulic Dredge  Front-end Loader & Truck  Shovel & Truck

Dragline & Truck  Self-loading Scraper

Other (explain): \_\_\_\_\_

4. a. Expected maximum depth of mine (feet) 30' NATURAL GROUND LEVEL

Depth is relative to what benchmark? (e.g., natural ground level, mean sea level, road elevation, etc.)

**Attachment 1  
Burton Mine**

- b. Expected average depth of mine (feet) 15'
5. Has any area(s) at this site been mined in the past? Yes  No
- If yes, when and by whom was this activity conducted? \_\_\_\_\_
6. Number of years for which the permit is requested (10 years maximum): 10 YEARS

**B. MAPS**

1. Clearly mark and label the location of your mining operation on **six (6) copies** of a 7.5-minute quadrangle and a county highway map. These maps, in addition to **six (6) copies** of all mine maps and reclamation maps, must be submitted with each permit application.

7.5-minute quadrangles may be obtained from the N.C. Geological Survey:

Mailing Address:

1612 Mail Service Center  
Raleigh, North Carolina 27699-1612  
(919) 707-9220

OR

Physical Address:

512 North Salisbury Street  
5<sup>th</sup> Floor  
Raleigh, North Carolina 27604

[http://portal.ncdenr.org/web/lt/geological\\_home](http://portal.ncdenr.org/web/lt/geological_home)

County highway maps may be obtained from the N.C. Department of Transportation:  
North Carolina Department of Transportation – Geographic Information Systems (GIS)

Mailing Address:

NCDOT GIS Unit  
1587 Mail Service Center  
Raleigh, North Carolina 27699-1587

Physical Address:

NCDOT GIS Unit  
3401 Carl Sandburg Court  
Raleigh, North Carolina 27610  
(919) 212-6000

<http://www.ncdot.org/it/gis/>

2. Mine maps must be accurate and appropriately scaled drawings, aerial photographs or enlarged topographic maps of the entire mine site. **All aspects of the mine site must be clearly labeled on the maps along with their corresponding (approximate) acreage. As a reminder, mining permits can only be issued for up to 10 years; thus, all mine and reclamation maps must only denote those activities that are intended to be conducted during the life of the mining permit.** All maps must be of a scale sufficient (see minimum requirements listed below) to clearly illustrate the following, **at a minimum:**
- a. Property lines of the tract or tracts of land on which the proposed mining activity is to be located including easements and rights-of-way.
  - b. Existing or proposed permit boundaries.
  - c. Initial and ultimate limits of clearing and grading.
  - d. Outline and width of all buffer zones (both undisturbed and unexcavated).
  - e. Outline and acreage of all pits/excavations.
  - f. Outline and acreage of all stockpile areas.
  - g. Outline and acreage of all temporary and/or permanent overburden disposal areas.
  - h. Location and acreage of all processing plants (processing plants may be described as to location and distance from mine if sufficiently far removed).
  - i. Locations and names of all streams, rivers and lakes.
  - j. Outline and acreage of all settling and/or processing wastewater ponds.
  - k. Location and acreage of all planned and existing access roads and on-site haul roads.
  - l. Location of planned and existing on-site buildings.
  - m. Location and dimensions of all proposed sediment and erosion control measures.
  - n. Location of 100-year floodplain limits and wetland boundaries.
  - o. Names of owners of record, both public and private, of all tracts of land that are adjoining the mining

**Attachment 1  
Burton Mine**

- permit boundary; if an adjoining tract is owned or leased by the applicant or is owned by the lessor of the mine tract, names of owners of record of tracts adjoining these tracts, that are within 1,000 feet of the mining permit boundary, must be provided on the mine map.
- p. Names of owners of record, both public and private, of all tracts of land that are adjoining the mining permit boundary which lie directly across and are contiguous to any highway, creek, stream, river, or other watercourse, railroad track, or utility or other public right-of-way. If an adjoining tract is owned or leased by the applicant or is owned by the lessor of the mine tract, names of owners of record of tracts adjoining these tracts, that are within 1,000 feet of the mining permit boundary, must be provided on the mine map(s). NOTE: "Highway" means a road that has four lanes of travel or less and is not designated as an Interstate Highway.
- q. Map legend:
1. Name of applicant
  2. Name of mine
  3. North arrow
  4. County
  5. Scale
  6. Symbols used and corresponding names
  7. Date prepared and revised
  8. Name and title of person preparing map

Map scales should meet the following guidelines:

<u>PERMITTED ACREAGE</u>	<u>MAP SCALE</u>
0-49 Acres	1 inch = 50 feet
50-199 Acres	1 inch = 100 feet
200+ Acres	1 inch = 200 feet

(NOTE: Smaller scaled maps may be acceptable if they clearly illustrate the above items)

A table/chart must be provided on the mine map that clearly lists the approximate acreage of tailings/sediment ponds, stockpiles, wastepiles, processing area/haul roads, mine excavation and any other major aspect of the mining operation that is proposed to be affected/disturbed during the life of the mining permit. A table/chart similar to the following will be acceptable:

<b>CATEGORY</b>	<b>AFFECTED ACREAGE</b>
Tailings/Sediment Ponds	0.86
Stockpiles	1.65
Wastepiles	0.0
Processing Area/Haul Roads	1.45
Mine Excavation	12.7
Other (Explain)	0.0
<b>Total Disturbed Acreage</b>	<b>16.66</b>

**NOTE:**

**IN ADDITION TO THE ABOVE, THE MAPS MUST ALSO INCLUDE ANY SITE-SPECIFIC INFORMATION THAT IS PROVIDED IN THE ANSWERS TO THE FOLLOWING QUESTIONS IN THIS APPLICATION FORM (PLEASE NOTE THE ITALICIZED QUESTIONS/STATEMENTS THROUGHOUT THE FORM). THIS APPLICATION WILL NOT BE CONSIDERED COMPLETE WITHOUT ALL RELEVANT ITEMS BEING ADEQUATELY ADDRESSED ON THE MINE MAPS.**

**Attachment 1  
Burton Mine**

**C. PROTECTION OF NATURAL RESOURCES**

1. Describe in detail the sequence of events for the development and operation of the mine and *reference the sequence to the mine map(s)*. Attach additional sheets as needed.

**It is the intention of EFS Properties, LLC, herein after referred to as the "Applicant", to excavate approximately 12.7 acres of sand off a site located within the Holly Township, in Pender County. Reclamation will consist of grading the sides of the pit, with no less than a 3:1 run over rise slope. Seed and straw will be used to stabilize the the disturbed soil.**

2. Describe specific erosion control measures to be installed prior to land disturbing activities and during mining to prevent offsite sedimentation (*include specific plans for sediment and erosion control for mine excavation(s), waste piles, access/mine roads and process areas*), and give a detailed sequence of installation and schedule for maintenance of the measures. *Locate and label all sediment and erosion control measures on the mine map(s) and provide typical cross-sections/construction details of each measure*. Engineering designs and calculations are required to justify the adequacy of any proposed measures.

**Silt fence will be installed around the limits of disturbance, which consists of the following: excavation area; stockpile area; sediment trap; and the access road (see Appendix C). A temporary sediment trap with outfall will be installed prior to commencement of the mining operation.**

3. a. Will the operation involve washing the material mined, recycling process water, or other waste water handling? Yes  No . If yes, briefly describe all such processes including any chemicals to be used.
- b. Will the operation involve discharging fresh or waste water from the mine or plant as a point discharge to the waters of the State? Yes  No . *If yes, briefly describe the nature of the discharge and locate all proposed discharge points (along with their method of stabilization) on your mine map(s)*.
- c. Will any part of the proposed mine excavation(s) extend below the water table? Yes  No .  
If yes, do you intend to dewater the excavation(s)? Yes  No .  
If yes, what impact, if any, will mine dewatering have on neighboring wells? Estimated withdrawal rate in gallons per day: 5,000 max. *Locate all existing wells on the mine map(s) that lie within 500 feet of the proposed excavation area*. Provide data to support any conclusions or statements made, including any monitoring well data, well construction data and current water withdrawal rates. Indicate whether the proposed mine locale is served by a public water system or private wells.

**A 28 November 2012 phone call, with Mr. Bob Forand, of the Pender County Public Utilities Department, confirmed that there are no wells within 500 linear feet of the excavation area.**

- d. If you answered yes to any of the above questions, provide evidence that you have applied for or obtained the appropriate water quality permit(s) (i.e., non-discharge, NPDES, Stormwater, etc.) from the Division of Water Quality, Water Quality Section. In addition, the applicant is required to register water use with the Division of Water Resources if the operation withdraws more than 10,000 gallons per day and needs a capacity use permit from the Division of Water Resources if the operation lies in a capacity use area and withdraws more than 100,000 gallons per day.

**A Notice of Intent will be submitted to the Division of Water Resources concurrently with this permit application to the DLR.**

**Attachment 1  
Burton Mine**

4. a. Will the operation involve crushing or any other air contaminant emissions? Yes  No .  
If yes, indicate evidence that you have applied for or obtained an air quality permit issued by the Division of Air Quality or local governing body.

b. How will dust from stockpiles, haul roads, etc., be controlled?

**Water trucks will spray haul roads during hours of operation.**

5. a. A buffer will be required between any mining activity and any mining permit boundary or right-of-way. It may be an unexcavated buffer (no excavation, but roadways, berms and erosion & sedimentation control measures may be installed within it), an undisturbed buffer (no disturbance within the buffer whatsoever), or a combination of the two, depending upon the site conditions. Note that all buffers must be located within the mining permit boundaries.

How wide a buffer will be maintained between any mining activity and any mining permit boundary or right-of-way at this site? A minimum buffer of 25 feet is recommended, although a wider buffer may be needed depending on site conditions. *Show all buffer locations and widths on the mine map(s).*

**The mine site property fronts NC Highway 210, however, the limits of disturbance, except for the access road, are far off the highway. A 100' no disturb buffer will be provided between the limits of disturbance and the public ROW and the permit boundary limits (see Appendix C).**

- b. A minimum 50 foot wide undisturbed buffer will be required between any land disturbing activities within the mining permit boundaries and any natural watercourses and wetlands unless smaller undisturbed buffers can be justified. Depending on site conditions, a buffer wider than 50 feet may be needed.

How wide an undisturbed buffer will be maintained between any land disturbing activities within the mining permit boundaries and any natural watercourses and wetlands at this site? *Show all buffer locations and widths on the mine map(s).*

**There are no §404 waters or natural water courses within 50 linear feet of the proposed land disturbing activities.**

6. a. Describe methods to prevent landslide or slope instability adjacent to adjoining permit boundaries during mining. Minimum 2 horizontal to 1 vertical slopes or flatter for clayey material and minimum 3 horizontal to 1 vertical slopes or flatter for sandy material are generally required, unless technical justification can be provided to allow steeper slopes.

**Soils located within the excavation area are sandy in nature. Slopes will not exceed the 3:1 gradient requirements.**

- b. *Provide a cross-section on the mine map(s) for all fill slopes (berms, wastepiles, overburden disposal areas, etc.), clearly indicating the intended side slope gradient, installation of any benches and/or slope drains (with supporting design information) if needed, and the method of final stabilization.*

**See Appendix C.**

- c. In excavation(s) of unconsolidated (non-rock) materials, specify the angle of all cut slopes including

**Attachment 1  
Burton Mine**

specifications for benching and sloping. *Cross-sections for all cut slopes must be provided on the mine map(s).*

**All cut slopes will be no less than 3 feet of run to 1 foot of rise. See attached site plan.**

- d. In hardrock excavations, specify proposed bench widths and heights in feet. *Provide cross-sections of the mine excavation clearly noting the angles of the cut slopes, widths of all safety benches and mine benches, and the expected maximum depth of the excavation.*

NA

7. Describe other methods to be taken during mining to prevent physical hazard to any neighboring dwelling house, public road, public, commercial or industrial building from any mine excavation. *Locate all such structures on the mine map if they are within 300 feet of any proposed excavation.*

**There are no neighboring dwellings, public roads, commercial or industrial buildings within 300 feet of any of the proposed mining activities (See Appendix A).**

8. Describe what kind of barricade will be used to prevent inadvertent public access along any high wall area and when it will be implemented. Vegetated earthen berms, appropriate fencing and adequate boulder barriers may be acceptable high wall barricades. *A construction detail/cross-section and location of each type of barricade to be used must be indicated on the mine map(s).*

**High walls are not proposed as part of this project. The mine site will have a gated entry that will be locked during non-operational hours.**

9. Are acid producing minerals or soils present? Yes  No .
- If yes, how will acid water pollution from the excavation, stockpiles and waste areas be controlled?
10. a. Describe specific plans (including a schedule of implementation) for screening the operation from public view such as maintaining or planting trees, bushes or other vegetation, building berms or other measures. *Show the location of all visual screening on the mine map(s) and provide cross-sections through all proposed berms or proposed spacing, sizes and species for tree plantings.*

**The mining area is surrounded by a vegetated buffer and will not be visible from the adjacent public road or adjacent property owners.**

- b. Could the operation have a significantly adverse effect on the purposes of a publicly owned park, forest, or recreation area? If so, how will such effects (i.e., noise, visibility, etc.) be mitigated?

**There are no parks in the area of the mine site. Forested areas surrounding the site are privately owned and are not open to the public. Therefore, the operation will not have any significant adverse effects on the uses of a publicly owned park, forest or recreation area.**

11. Will explosives be used? Yes  No .
- If yes, specify the types of explosive(s) and describe what precaution(s) will be used to prevent physical hazard to persons or neighboring property from flying rocks or excessive air blasts or ground vibrations. Depending on the mine's location to nearby structures, more detailed technical information may be required on the blasting program (such as a third-party blasting study). *Locate the nearest offsite occupied structure(s) to the proposed excavation(s) on the mine map and indicate its approximate distance to the proposed excavation.*

**Attachment 1  
Burton Mine**

12. Will fuel tanks, solvents, or other chemical reagents be stored on-site? Yes  No .
- If yes, describe these materials, how they will be stored and method of containment in case of spill. Indicate the location(s) of all storage facilities on the mine map(s).*

**D. RECLAMATION PLAN**

1. Describe your intended plan for the final reclamation and subsequent use of all affected lands and indicate the sequence and general methods to be used in reclaiming this land. This must include the method of reclamation of settling ponds and/or sediment control basins and the method of restoration or establishment of any permanent drainage channels to a condition minimizing erosion, siltation and other pollution. *This information must be illustrated on a reclamation map and must correspond directly with the information provided on the mine map(s). In addition, design information, including typical cross-sections, of any permanent channels to be constructed as part of the reclamation plan and the location(s) of all permanent channels must be indicated on the reclamation map.*

**Once mining activities have ceased the slopes will be final graded to no**

7. Is an excavated or impounded body of water to be left as a part of the reclamation? Yes  No
- If yes, illustrate the location of the body(s) of water on the reclamation map and provide a scaled cross-section(s) through the proposed body(s) of water.*

The minimum water depth must be at least 4 feet, measured from the normal low water table elevation, unless information is provided to indicate that a more shallow water body will be productive and beneficial at this site.

Will the body(s) of water be stocked with fish? Yes  No .

If yes, specify species. Bream and Bass

3. Describe provisions for safety to persons and to adjoining property in all completed excavations in rock including what kind of permanent barricade will be left. Acceptable permanent barricades are appropriate fencing, large boulders placed end-to-end, etc. *Construction details and locations of all permanent barricades must be shown on the reclamation map.*

**All proposed excavation will take place in sandy soils. The pit is expected to fill with a combination of ground and rain water. Therefore, no safety precautions have been designed to protect adjoining properties after work has been completed.**

4. Indicate the method(s) of reclamation of overburden, refuse, spoil banks or other such on-site mine waste areas, including specifications for benching and sloping. *Final cross-sections and locations for such areas must be provided on the reclamation map.*

**Overburden will be used to create the 3:1 slopes of the pit.**

5. a. Describe reclamation of processing facilities, stockpile areas, and on-site roadways.

- b. Will any on-site roadways be left as part of the reclamation? Yes  No .

*If yes, identify such roadways on the reclamation map, and provide details on permanent road and ditch line stabilization.*

6. Describe the method of control of contaminants and disposal of scrap metal, junk machinery, cables, or other such waste products of mining. (Note definition of refuse in The Mining Act of 1971.)

**Attachment 1  
Burton Mine**

**F. NOTIFICATION OF ADJOINING LANDOWNERS**

The "Notice" form, or a facsimile thereof, attached to this application must be sent certified or registered mail, return receipt requested, to:

- (1) **the chief administrative officer of each county and municipality in which any part of the permitted area is located as indicated on the mine map(s);**
- (2) **all owners of record, both public and private, of all tracts of land that are adjoining the mining permit boundary; if an adjoining tract is owned or leased by the applicant or is owned by the lessor of the mine tract, all owners of record of tracts adjoining these tracts must be notified (that are within 1,000 feet of the mining permit boundary) as indicated on the mine map(s); and**
- (3) **all owners of record, both public and private, of all tracts of land that are adjoining the mining permit boundary which lie directly across and are contiguous to any highway, creek, stream, river, or other watercourse, railroad track, or utility or other public right-of-way. If an adjoining tract is owned or leased by the applicant or is owned by the lessor of the mine tract, all owners of record of tracts adjoining these tracts must be notified (that are within 1,000 feet of the mining permit boundary) as indicated on the mine map(s). "Highway" means a road that has four lanes of travel or less and is not designated as an Interstate Highway.**

The only exception to the above method of giving notice is if another means of notice is approved in advance by the Director, Division of Land Resources.

A copy of a tax map (or other alternative acceptable to the Department) must be mailed with the completed "Notice" form **(the proposed overall permit boundaries and the names and locations of all owners of record of lands adjoining said boundaries must be clearly denoted on the tax map).**

The "Affidavit of Notification" attached to this application must be completed, notarized and submitted to the Department, with the remainder of the completed application form, before the application will be considered complete.

**NOTES:**

**THIS SECTION MUST BE COMPLETED FOR ALL APPLICATIONS FOR NEW MINING PERMITS AND ALL MODIFICATIONS OF A MINING PERMIT TO ADD LAND TO THE PERMITTED AREA, AS REQUIRED BY NCGS 74-50(b1).**

**SEE THE NEXT TWO PAGES FOR THE "NOTICE" FORM AND THE "AFFIDAVIT OF NOTIFICATION"**

Attachment 1  
Burton Mine

NOTICE

Pursuant to provisions G.S. 74-50(b1) of The Mining Act of 1971, Notice is hereby given that EFS Properties, LLC has applied on 18 September 2013 to the Land Quality Section, Division of Land Resources, North Carolina Department of Environment and Natural Resources, 1612 Mail Service Center, Raleigh, North Carolina 27699-1612, for (check one):

- a new surface mining permit,
- a modification of an existing surface mining permit to add land to the permitted area; or
- a modification of an existing surface mining permit to add land to the permitted area with no disturbance in the area proposed. **Please note that future modification(s) may be submitted by the applicant to allow disturbance within this area without re-notification of adjoining landowners.**

The applicant proposes to mine Sand on 20.82 acres located 4  
(Mineral, Ore) (Number) (Miles)  
East of Rocky Point off/near road NC Hwy 210 in Pender County.  
(Direction) (Nearest Town) (Number/Name)

**\*SEE ATTACHED MAP FOR PROPOSED PERMIT BOUNDARIES AND CORRESPONDING ADJOINING LANDOWNER NAMES AND LOCATIONS\***

In accordance with G.S. 74-50(b1), the mine operator is required to make a reasonable effort, satisfactory to the Department, to notify all owners of record, both public and private, of all tracts of land that are adjoining the mining permit boundary; if an adjoining tract is owned or leased by the applicant or is owned by the lessor of the mine tract, all owners of record of tracts adjoining these tracts must be notified (that are within 1,000 feet of the mining permit boundary). In addition, the mine operator must also notify the chief administrative officer of the county or municipality in which any part of the permitted area is located. Any person may file written comment(s) to the Department at the above address within thirty (30) days of the issuance of this Notice or the filing of the application for a permit, whichever is later. Should the Department determine that a significant public interest exists relative to G.S. 74-51, a public hearing will be held within 60 days of the end of the 30-day comment period specified above.

A copy of the permit application materials is on file and available for public review during normal business hours at the above listed address as well as at the appropriate regional office. **For information regarding the specifics of the proposed mining activity, please contact the applicant at the following telephone number: (910) 452.2711**. For information on the mining permit application review process, please contact the Mining Program staff at (919) 707-9220. **Please note that the Department will consider any relevant written comments/documentation within the provisions of the Mining Act of 1971 throughout the application review process until a final decision is made on the application.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Addressee/Owner of Record's  
Name and Address)

16 September 2013  
(Date of Issuance of this Notice/  
Mailed to Addressee/Owner of Record)

EFS Properties, LLC  
Dana Lutheran (SEGi)  
910.452.2711  
(Name of Applicant: Include Contact Person  
& Company Name, if Applicable)

211 North Fifth Street  
Wilmington, NC 28401  
(Address of Applicant)



# Intracoastal Engineering PLLC

September 16, 2013

**Pender County  
Planning and Zoning  
605 E. Fremont St.  
Burgaw, NC 28425**

Re: Burton Tract  
PN 2013-017

Dear Neighbor,

We would like to welcome you to a meeting on September 25<sup>th</sup>, 2013 5:30pm located at:

**Board of Commissioners Room**  
Pender County Administration Building  
805 S. Walker Street  
Burgaw, NC 28425

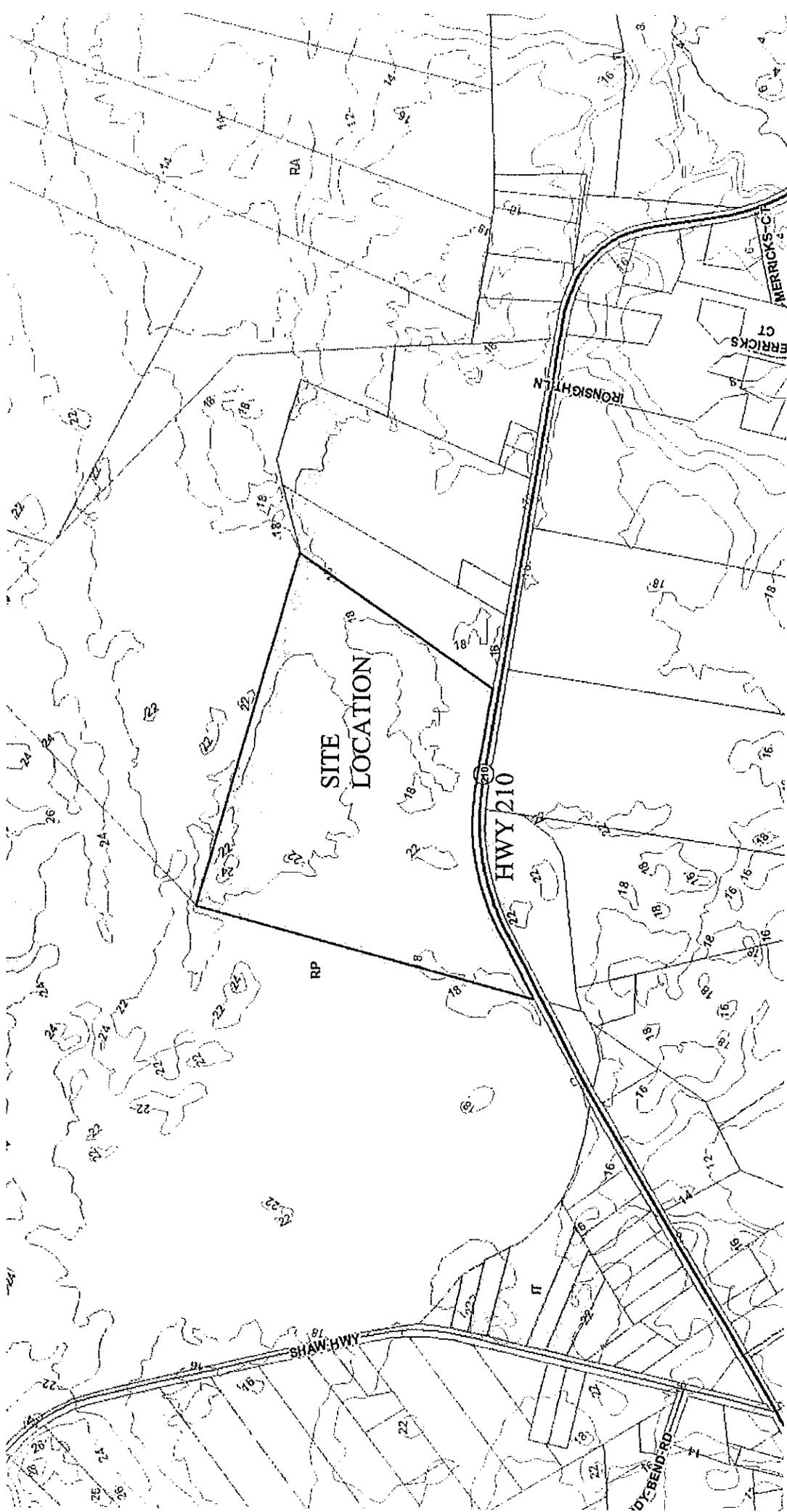
The site is proposed for a conditional zoning district. We would like to have this meeting so you may see the site plan and ask any questions about what is proposed. The parcel proposed for this zoning is parcel # 3255-78-6248-0000 as shown on the enclosed Location map.

Please come to the meeting with any questions, comments or additional information needed.

Sincerely,  
**Intracoastal Engineering PLLC**



Charles D. Cazier, P.E.



### Attendance Roster for Public Meeting

Burton Mine  
Pender County, NC

Name	Address
1. Peedy Mares	9948 NC Hwy 210
2. Terry R. Watkins	
3. Brenda Watkins	
4. Shirley [unclear]	367-6715 9424 NC Hwy 210 Rocky Pt, NC.
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	



# **PUBLIC INPUT MEETING REPORT**

for

## **BURTON MINE**

PENDER COUNTY  
NORTH CAROLINA

September, 2013

Prepared By:

**Intracoastal Engineering, PLLC  
91 Pelican Point Rd.  
Wilmington, North Carolina 28409  
910-409-3567**

***Topic list for Public Meeting***

Burton Mine  
Pender County, NC

<b>Name</b>	<b>Topic</b>
1. _____	What will be the effects to wells in the area?
2. _____	What will the depth of the mine be?
3. Ms. Cherry	Values of adjacent properties (house for sale)
4. _____	Intention of future site use.
5. _____	
6. _____	
7. _____	
8. _____	
9. _____	
10. _____	
11. _____	
12. _____	
13. _____	