



REQUEST FOR BOARD ACTION

ITEM NO. 8.

DATE OF MEETING: June 23, 2014

REQUESTED BY: Ed McCarthy, Planner II, Planning & Community Development

SHORT TITLE: Resolution to Approve a Special Use Permit (SUP) for the Operation of Sand Mine (NAICS 2123 Nonmetallic Mineral Mining and Quarrying).

BACKGROUND: Oak Island Partners, LLC, applicant and owner, is requesting approval of a Special Use Permit (SUP) for the operation of a Sand Mine (NAICS 2123 Nonmetallic Mineral Mining and Quarrying). The property is currently zoned RA, Rural Agricultural District, and Sand Mines are permitted via SUP in the RA zoning district. The subject property is located approximately 5,000' north of US Highway 17, near the Pender/Onslow County border and may be identified as Pender County PIN 4227-33-2015-0000; 4227-42-3351-0000; 4227-51-3640-0000.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit for Sand Mine.

RESOLUTION

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

The Pender County Board of Commissioners (approved, modified, denied) a Special Use Permit (SUP) for the operation of a Sand Mine as described herein, and the Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Williams ___ McCoy ___ Brown ___ Tate ___ Ward ___

J. David Williams, Jr., Chairman 6/23/2014
Date

ATTEST 6/23/2014
Date

PLANNING STAFF REPORT

Special Use Permit

SUMMARY:

Hearing Date: June 23, 2014

Applicant: Oak Island Partners, LLC

Property Owner: Oak Island Partners, LLC

Case Number: 11181

Land Use Proposed: The applicant is requesting approval of a Special Use Permit (SUP) for the operation of a Sand Mine (NAICS 2123 Nonmetallic Mineral Mining and Quarrying)

Property Record Number and Location: The subject property is located approximately 5,000' north of US Highway 17, near the Pender/Onslow County border and may be identified as Pender County PIN 4227-33-2015-0000; 4227-42-3351-0000; 4227-51-3640-0000. There are three tracts associated with this request totaling approximately 168.25 acres.

Zoning District of Property: The property is currently zoned RA, Rural Agricultural; according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; Sand Mines(NAICS 2123 Nonmetallic Mineral Mining and Quarrying) are permitted via Special Use Permit in the RA, Rural Agricultural zoning districts.

PROJECT DESCRIPTION:

Oak Island Partners, LLC, applicant and owner, is requesting approval of a Special Use Permit (SUP) for the operation of an approximately 22.90 (35.20 with access roads) acre Sand Mining operation affecting four tracts totaling 280.95 acres within Pender County. The tracts directly affected by mining total approximately 168.75 acres. (Exhibit 1)

According to the Pender County Unified Development Ordinance Appendix A:

Mining: The breaking or disturbing of the surface soil or rock in order to remove minerals to make them suitable for commercial, industrial or construction use, but not including excavation or grading when conducted in aid of on-site farming or construction.

According to the applicant's submitted materials, the 22.90 acre Sand Mine will be developed to a depth no greater than approximately 7.5'. The hours of operation will be: Monday-Friday 8:00 a.m.-5:00 p.m. (Exhibit 2)

The applicant is proposing to add an approximately 1,000 sq. ft commercial structure and utilize 4-5 employees to maintain the mining operation. Access will be attained via an existing access roads that access directly off of US Highway 17 in Onslow County. (Exhibit 3)

A portion of the property is located within the identified "Approximate Zone A" & "Zone X", according to the 2007 Flood Insurance Rate Maps (FIRMs), Map Number 3720422700K, Panel Number 4227. Prior to the issuance of Final Zoning approval a flood study must be required as outlined in the Pender County Unified Development Ordinance § 9.5.3. Any development in the Special Flood Hazard Area is required to be in accordance with the Pender County Flood Damage Prevention Ordinance.

According to the applicant’s preliminary analysis, there appears to be wetlands located on the subject property. Development within the jurisdictional wetlands would be subject to review and approval by the US Army Corps of Engineers. Any development within these areas may be subject to the permit requirements of Section 404 of the Clean Water Act.

Prior to the issuance of final zoning approval, a site development plan must be submitted and approved in accordance with applicable provisions of the Pender County Unified Development Ordinance.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MHI	PD	GD	OI	IT	CI	EC
MISCELLANEOUS USES											
Nonmetallic Mineral Mining & Quarrying		S								S	

EVALUATION:

- A. Public Notifications:** Advertisements for the proposal have been placed in the *Pender-Topsail Post & Voice*. Adjacent property owners were notified by first class mail; as well as a sign advertising the public hearing was placed on the subject property.
- B. Basis for Granting SUP:** See attachment A for approval procedures (§3.12.3 of Unified Development Ordinance) and revocation procedures (§3.12.4 of Unified Development Ordinance).

Unified Development Ordinance Compliance:

The property is currently zoned RA, Rural Agricultural; according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; Sand Mines(NAICS 2123 Nonmetallic Mineral Mining and Quarrying) are permitted via Special Use Permit in the RA, Rural Agricultural zoning districts.

- C. 2010 Comprehensive Land Use Plan Compliance:** The subject parcel is designated as Conservation. Conservation areas are areas that are owned in fee simple or have protective easements. These areas represent areas of special significance and unique characteristics that make them worthy of preservation. Current conservation areas are typically owned by Federal or State agencies or private conservation groups and are often designated as Areas of Environmental Concern (AECs). Currently, conservation areas comprise approximately 131,393 acres (24.7%) of the land area within the Pender County zoning jurisdiction

The SUP request may be supported by a policy within the *2010 Comprehensive Land Use Plan* but is in conflict with the *Conservation Land Use Classification*:

- 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.**

The proposal appears to conflict with the definition of appropriate development(s) proposed for the Conservation Land Use Classification, “Only public or private open space or uses

that require water access and cannot function elsewhere are appropriate in conservation areas.”

- D. Existing Land Use in Area:** The tracts affected by the proposed mining development are 168.75 acres in size and are surrounded by forested land classified as Conservation.
- E. Site Access Conditions:** Access to the proposed mine site will be on an access road onto US Highway 17 within Holly Ridge, Onslow County. Access is subject to review and approval by the NCDOT.
- F. Conditions To Consider In Issuing the Special Use Permit For This Project:**
 - 1. The project shall comply with all requirements of the Pender County Unified Developed Ordinance.
 - 2. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.
 - 3. The applicant shall meet all other local, state and federal regulations.
 - 4. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit.
 - 5. The applicant shall secure a letter of concurrency from the Town of Holly Ridge’s Planning Department indicating that the uses’ access is acceptable within the Town of Holly Ridge._____
 - 6. Final Zoning shall not be issued until the applicant has successfully secured a Land Use Classification modification from Conservation to an appropriate Land Use Classification as determined by the Planning Board and Board of County Commissioners.

Attachment A

3.12.3 Procedures for Reviewing Applications

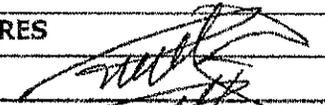
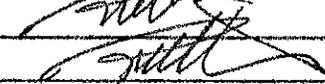
- A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
- B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.
- C. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed.
- D. The Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.
- E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.
- F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.
- G. The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit, the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:
 - 1. The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;

2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
3. The proposed use shall not constitute a nuisance or hazard;
4. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;
7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and
8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

3.12.4 General Provisions Concerning Special Use Permits

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

APPLICATION FOR SPECIAL USE PERMIT

THIS SECTION FOR OFFICE USE			
Application No.	SUP 11181	Date	
Application Fee	\$ 750.00	Receipt No.	
Pre-Application Conference	2/20/2014	Hearing Date	6/16/14
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Oak Island Partners, LLC	Owner's Name:	Oak Island Partners, LLC
Applicant's Address:	806 N. 23rd Street	Owner's Address:	806 N. 23rd Street
City, State, & Zip	Wilmington, NC 28405	City, State, & Zip	Wilmington, NC 28405
Phone Number:	910-343-0624 - Henry Boon	Phone Number:	910-343-0624 - Henry Boon
Legal relationship of applicant to land owner: Applicant and land owner are the same.			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	4227-33-2015-0000 4227-42-3351-0000 4227-51-3640-0000	Total property acreage:	168.75 ac
Zoning Classification:	RA	Acreage to be disturbed:	+/- 23.4
Project Address :	Off US HWY 17	NAICS Code:	212321
Description of Project Location:	From intersection of US HWY 17 and NC 50, travel 1.5 miles south on US HWY 17 to gravel road that will be used for entrance.		
Describe activities to be undertaken on project site:	A sand mine is proposed.		
SECTION 3: SIGNATURES			
Applicant's Signature	 MANAGER	Date:	4/29/14
Owner's Signature	 MANAGER	Date:	4/29/14
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 1. Applicant must also submit the information described on the Special Use Checklist. 2. Applicant or agent authorized in writing must attend the public hearing. 3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing. 4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application. 5. Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing. 			

Office Use Only							
<input type="checkbox"/> General/ Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000 <input type="checkbox"/> Tower over 75 Feet/ Fees \$500 <input type="checkbox"/> Minor Revisions /Fees \$100 <input checked="" type="checkbox"/> Mining Fees \$750					Total Fee Calculation: \$ 750.00		
					Application#:		
					Date of Hearing: 6-23-14		
Attachments Included with Application: (Please include # of copies)							
CD /other digital version	<input type="checkbox"/> Y <input type="checkbox"/> N	Plan Sets	# of large	# of 11X17	Other documents/Reports	<input type="checkbox"/> Y <input type="checkbox"/> N	
Payment Method:	Cash: <input type="checkbox"/> \$ _____		Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		Check: <input checked="" type="checkbox"/> Check # _____		
Application received by: <i>[Signature]</i>					Date: _____		
Application completeness approved by: <i>[Signature]</i>					Date: 8-16-14		

Special Use Permit Checklist

<input checked="" type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<input checked="" type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete)
<input checked="" type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
<input checked="" type="checkbox"/>	Project Narrative —Written description of the project (max of 3 pages) including the following: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Location of the project and type of access to project site <input checked="" type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. <input checked="" type="checkbox"/> Description of all construction activities to be undertaken on the site <input checked="" type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers <input type="checkbox"/> List of all state and federal permits that will be required for the project <input checked="" type="checkbox"/> Applicant <u>must specifically address the 8 written findings</u> for Special Use Permit approval which are identified on page 1 of this application and in the Pender County Unified Development Ordinance (Section 3.12.3.G.). Describe any potential impacts the project will have on the community or adjacent properties such as traffic, noise, etc. and explain efforts to mitigate these impacts. The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.
<input type="checkbox"/>	Project Map(s) —Map or maps of the special use project site with boundaries of the project if less than the parcel boundaries. This map or maps shall be drawn to a <u>readable</u> scale. The scale shall be not more than 200' to the inch. The map shall display an accurate bar graph scale, date prepared, north arrow and the author of the map. This map(s) shall show the following: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Boundaries of the property upon which the special use will be located, the acreage in the property and project site, with a north arrow and bar graph. <input checked="" type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road. <input checked="" type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property. <input checked="" type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries. <input checked="" type="checkbox"/> Existing and proposed structures, other on-site improvements, and location of all activities associated with the use, location of well, septic tank, and/or other utilities. <input checked="" type="checkbox"/> Boundary of all clearing, grading, and/or land disturbing activities on the site and the calculated acreage of all land disturbing activities on the site. <input checked="" type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO) <input checked="" type="checkbox"/> Landscaping and buffering (See Article 8, Pender County UDO) <input checked="" type="checkbox"/> All signs to be located on the property (See Article 10, Pender County UDO) <input checked="" type="checkbox"/> Pedestrian walks, area lighting and flood lighting. <input checked="" type="checkbox"/> Existing natural features of the site including, wooded areas, tree lines, ponds, streams, other water bodies or ditches on or adjacent to the site, designated flood hazard areas & known or designated wetlands on the site. <input checked="" type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site. <input checked="" type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted. <input checked="" type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.
RETURN COMPLETED APPLICATION TO: Pender County Planning & Community Development P.O. Box 1519 Burgaw, NC 28425	

Exhibit 2

April 30, 2014

Ed McCarthy
Pender County Planning and Community Development
805 S. Walker Street
Burgaw, NC 28425

**RE: Special Use Permit Application
Oak Island Partners, LLC**

Dear Ed:

Enclosed is the special use permit application for the proposed Oak Island Partners, LLC sand mine located near Holly Ridge off of US HWY 17. This application is being made for the construction and operation of a sand mine that will be located in a RA zoning area.

The permit application includes: the signed application form, application fee of \$750, list of adjacent property owners, addressed and stamped envelopes to adjacent land owners, two full size site maps and 20 reduced copies (11-x-17) of the site map.

The site entrance is located off of US HWY 17 approximately 1.5 miles south of the intersection of US HWY 17 and NC 50. The proposed location of the sand mine is +/- 1.5 miles north of US HWY 17 on an existing gravel road back in a wooded area. The permittable mine boundary will include +/- 35.20 acres with only +/- 22.90 acres for the sand mine itself. The access road area that will be maintained by the mine owners equates to +/- 12.30 acres. Construction activities include sand removal by an excavator and the sand will be put in dump trucks and hauled off site. The proposed hours of operation are from 8:00 am – 5:00 pm Monday thru Friday. It is anticipated that only two employees will work at the site. State and Federal permits include a Mining Permit from NCDENR's Mining Section.

The proposed mine is for mining unconsolidated material only. No rock mining is proposed. The depth of the proposed mine will only be +/- 7.5 feet deep. The mine will be graded such that all runoff drains into the existing mine area. The mine will not have a discharge culvert. After the mining operations have been completed, the sand mine will remain as a large body of water to be used for duck hunting. The local fire department has also expressed interest in being able to use the water for fighting forest fires that may occur in the area.

The following is the response to the 8 approval standards that must be addressed with this application:

1. *The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;*

The use requested is listed among the special uses in the district for which the application is made.

2. *The requested use will not impair the integrity or character of the surrounding or adjoining districts nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;*

The use requested will not impair the integrity or character of the surrounding or adjoining districts nor adversely affect the safety, health, morals or welfare of the community or of the immediate neighbors of the property. The property where the sand mine will be located is 168.75 acres with only 22.90 acres being proposed for the sand mine. The total area that will be included for the sand mine permit with the State is 35.20 acres due to the +/- 1.5 mile long gravel access road from US HWY 17. The closest house is 1.1 miles across woods to the proposed sand mine. The closest driveway to the existing gravel road that will be used for the sand mine is 0.4 miles down US HWY 17.

3. *The proposed use shall not constitute a nuisance or hazard;*

The proposed use will not constitute a nuisance or hazard. The sand mine is not located near any residences and is +/- 1.5 miles off US HWY 17 down an existing gravel road in a wooded area away from any residences or other structures.

4. *The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County commissioners;*

The proposed use is permitted by a special use permit in an RA district.

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

A well maintained gravel access road connecting to US HWY 17 currently exists that will be used. Adequate utilities will be provided for the sand mine operation.

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

The existing gravel road connecting to US HWY 17 will be used for ingress and egress from the proposed sand mine. A single source borrow pit was previously constructed on this site and the gravel access road was utilized.

7. *That the special use shall, in all other aspects, conform to the applicable regulations of the district in which it is located; and*

The special use conforms to the applicable regulations of the district. The proposed use is permitted by special use in the RA district.

8. *The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.*

With the sand mine proposed only being +/- 22.90 acres out of the 168.25 acres of the property that it is located on, the space requirements are satisfied. The surrounding uses will not adversely affect the surrounding areas.

If you need any additional information or have questions, please feel free to contact me at 910-599-1744.

Sincerely,



Mark N. Hargrove
Port City Consulting Engineers, PLLC



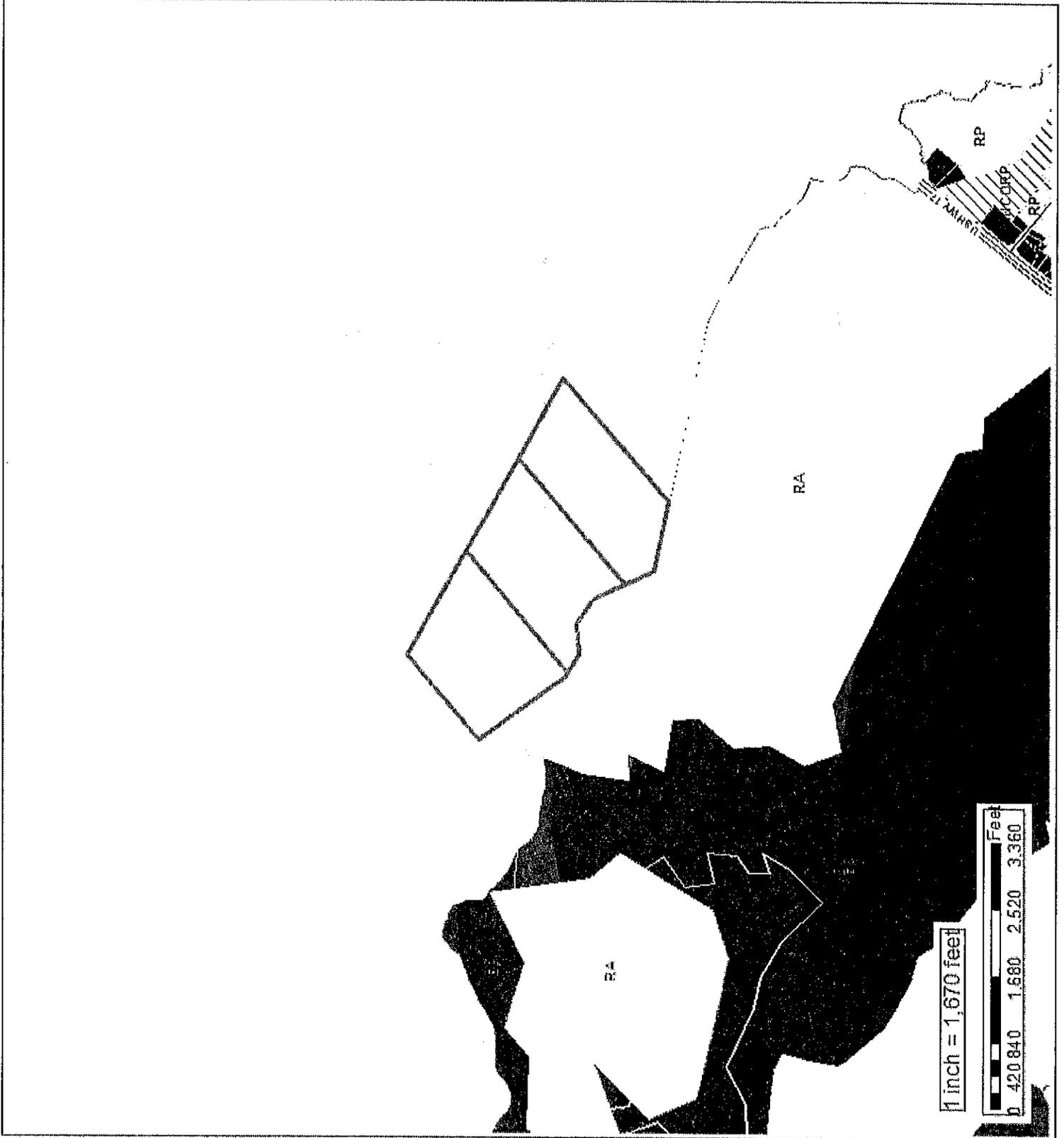
Applicant:
Oak Island Partners, LLC

Owner:
Oak Island Partners, LLC

Special Use Permit
11181



Zoning





Applicant:
Oak Island Partners, LLC

Owner:
Oak Island Partners, LLC

Special Use Permit
11181

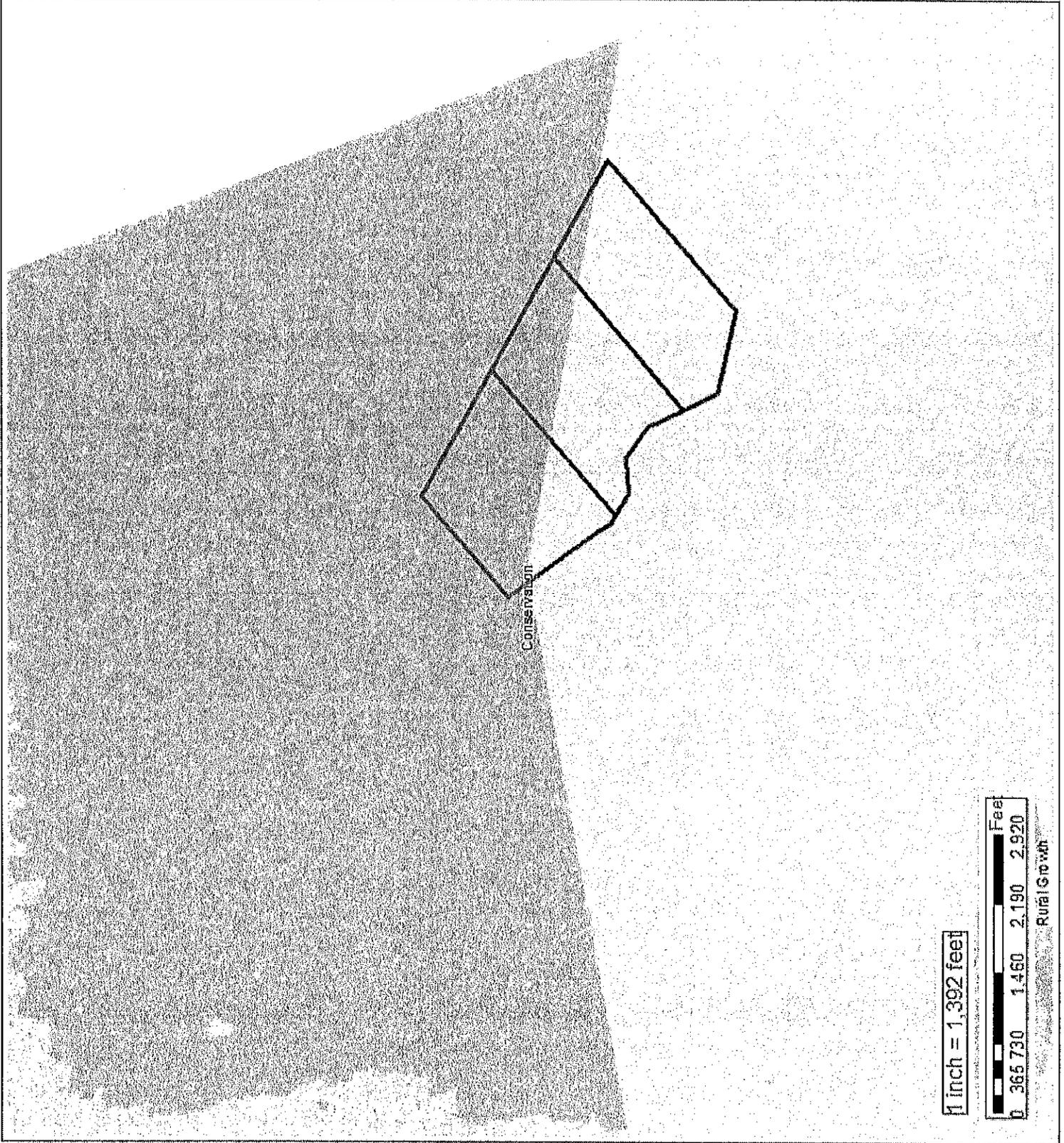
Legend

Future Land Use

-  Conservation
-  Industrial
-  Mixed Use
-  Rural Growth
-  Suburban Growth



Future Land Use



1 inch = 1,392 feet





Applicants:
Oak Island Partners, LLC

Owners:
Oak Island Partners, LLC

**Special Use Permit
(SUP)**

Case # 11181

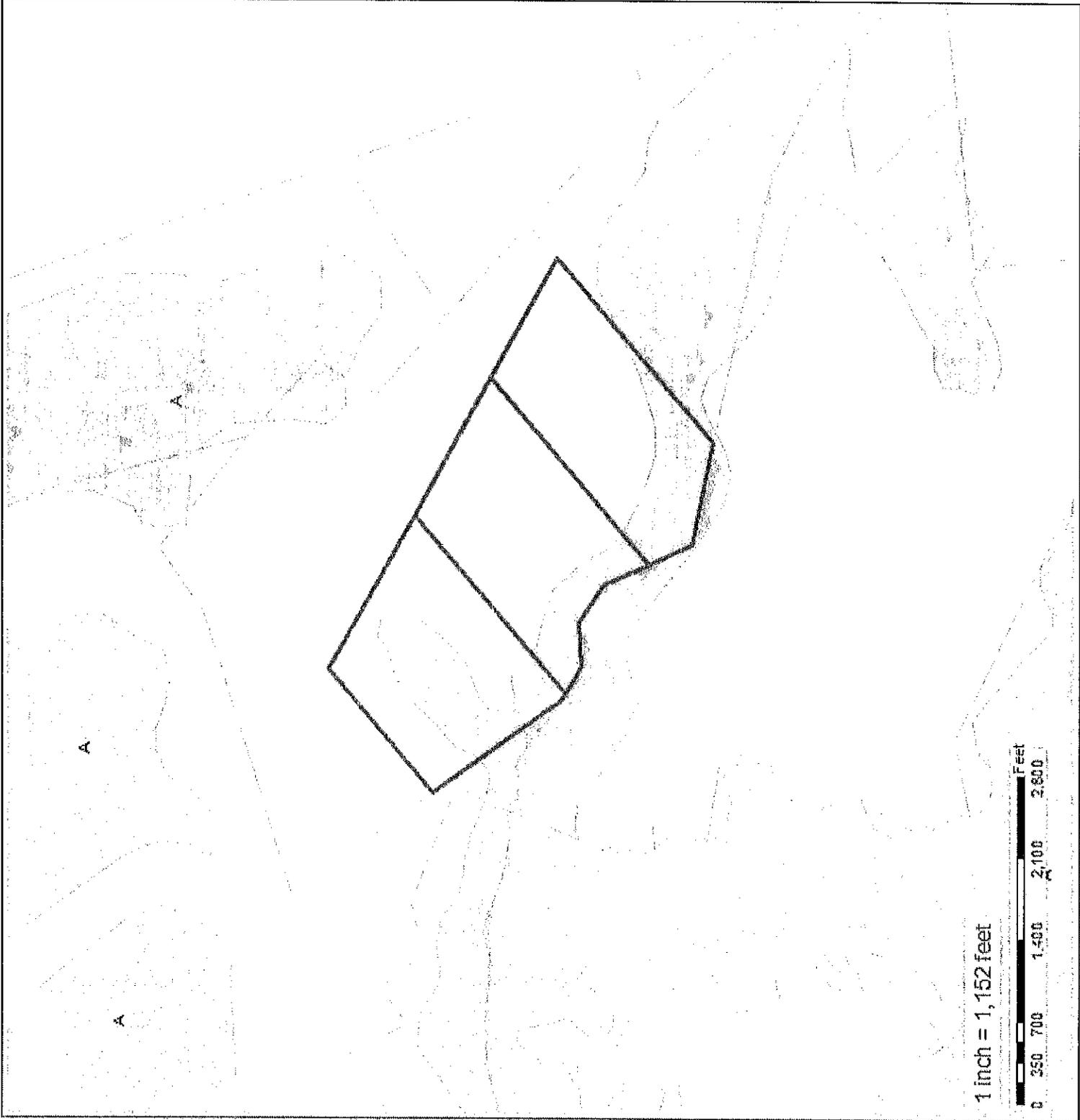
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Flood Hazard Areas

	A
	AE
	AEFW
	SHADED X
	VE



**Flood
Hazard Areas**



1 inch = 1,152 feet





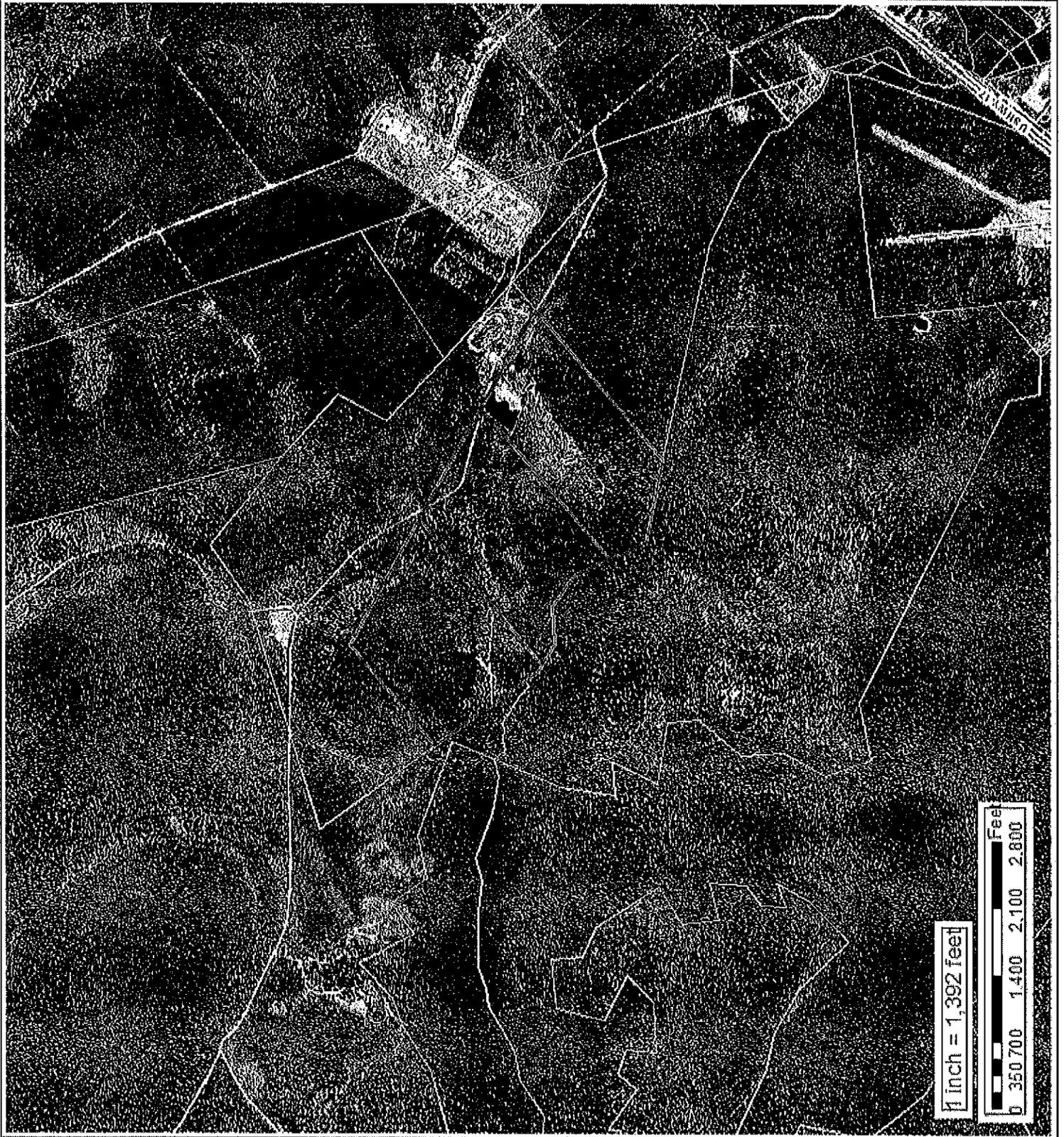
Applicant:
Oak Island Partners, LLC

Owner:
Oak Island Partners, LLC

Special Use Permit
11181



Aerial- 2012



1 inch = 1,392 feet

