



REQUEST FOR BOARD ACTION

ITEM NO. 16

DATE OF MEETING: January 20, 2015

REQUESTED BY: Megan O'Hare, Senior Planner, Planning & Community Development

SHORT TITLE: Resolution Requesting Approval of Major Revisions to an Existing Special Use Permit (SUP) for the Operation of a Sand Borrow Pit Mine. The Revisions are to Expand the Previously Approved Movable Area.

BACKGROUND: Dean Lanier, applicant and owner is requesting approval of a major revision to an existing Special Use Permit (SUP) originally issued November 21, 2005 for Phase I (SUP 05-11-21-15/ 10198) for \pm 8 acres and subsequently revised in July of 2012 for Phase II (SUP10198 R) to add \pm 4.3 acres. The SUP was issued for the construction and operation of a Sand Borrow Pit Mine, conditioned movable area of \pm 12.3 acres in total. The requested revision for Phase III will modify the aforementioned condition to allow for an additional \pm 24.849 acres. This is the only requested revision to the previously approved SUP. The property is currently zoned RA, Rural Agricultural zoning district and may be identified by Pender County PIN 3246-58-4158-0000. The subject property is located at 9265 Old River Road (SR 1411), Burgaw. There is one (1) tract associated with this request totaling \pm 113.83 acres. In accordance with Section 3.12.4.H of the Pender County Unified Development Ordinance, major revisions to Special Use Permits must be submitted to the Board of Commissioners.

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

RESOLUTION

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

on January 20, 2015 the Pender County Board of Commissioners (approved, modified, denied) a Special Use Permit Amendment, as described herein. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS _____

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

J. David Williams, Chairman 1/20/2015
Date

ATTEST 1/20/2015
Delivered DATE

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: January 20, 2015
Applicant: Dean Lanier
Property Owner: Dean Lanier
Case Number: 10198 R2 (SUP 05-11-21-15)

Land Use Proposed: The applicant is requesting approval of a second major revision to an existing Special Use Permit (10198 R /SUP 05-11-21-15) for the construction and operation of a Sand Borrow Pit Mine conditioned with a minable area of ± 37.149 acres in total.

Property Record Number and Location: The subject property is located at 9265 Old River Road, Burgaw and may be identified by Pender County PIN 3246-58-4158-0000. There is one (1) tract associated with this request totaling ± 113.83 acres.

Zoning District of Property: The property is currently zoned RA, Rural Agricultural District and Construction Sand and Gravel Mining (NAICS Industry Code 212312) is permitted in the RA, Rural Agricultural District via Special Use Permit. This mining facility has been in operation since March of 2006.

PROJECT HISTORY:

On November 21, 2005 a Special Use Permit was approved by the Pender County Commissioners for the construction and operation of a ± 8 acre Sand Borrow Pit Mine, to be located at 9265 Old River Road (SR 1411), Burgaw (Exhibit 1).

On July 23, 2012 Special Use Permit SUP 05-11-21-15 was modified to allow for another ten (10) years term for the SUP and to allow the minable area to be expanded an additional ± 5.63 acres bringing the minable area total to 12.3 acres (Exhibit 2).

PROJECT DESCRIPTION:

The applicant and owner, Dean Lanier, is requesting approval of a major revision to an existing Special Use Permit (SUP) issued November 21, 2005 (SUP 05-11-21-15/ 10198) and subsequently revised on July 23, 2012. The SUP (Phase I) was originally issued for the construction and operation of a Sand Borrow Pit Mine, conditioned with a ten (10) year expiration date and a minable area of ± 8 acres. The July 23, 2012 (Phase II) revisions modified the conditions to allow for another ten (10) year term for the SUP and to allow the minable area to be expanded an additional ± 4.3 acres. The Phase III revision would be to expand the existing minable area an additional ± 23.849 acres. This is the only requested revision to the SUP at this time.

The current SUP allows for the excavation of 12.3 acres of a ± 113.83 acre tract for the mining of fill materials (dirt and sand). The property is currently zoned RA, Rural Agricultural District

and may be identified by Pender County PIN 3246-58-4158-0000. The subject property is located at 9265 Old River Road (SR 1411), Burgaw.

Mining Permit

On March 7, 2006, the North Carolina Department of Environment and Natural Resource (NC DENR), Division of Land Resources issued Mining Permit Number 74-43 for this project. The permit was revised on September 21, 2012 to accommodate the Phase II changes (Exhibit 3). According to NC DENR, Division of Land Resources on December 22, 2014, the modification to the existing permit is currently under review and no Notice of Violations (NOV) have been issued for this operation. Additionally, the applicant does have a Certificate of Coverage for stormwater discharge and mine dewatering of this mine facility, last updated March 6, 2012 (Exhibit 4).

As prescribed in the Special Use Permit issued on November 21, 2005 the maximum depth of excavation shall not be lower than 1.1 feet above mean sea level (MSL) or approximately twenty-five (25) feet below the (survey monument) high point on the site of 23.9 feet above MSL. At this time no changes have been proposed for minable depth in Phase III.

According to the existing SUP, mining of the resources (sand) will occur solely by excavators; no dragging dredging, screening, crushing, explosives, or other removal operations will occur on this site. At this time no changes have been proposed for sediment removal in Phase III.

Environmental Concerns

Portions of the subject property are located within the "AE" and "AEFW" Special Flood Hazard Area (SFHA) along the Northeast Cape Fear River and its tributaries, according to the February 16, 2007 FEMA Flood Insurance Rate Maps (FIRMs), Map Number 3720324600J, Panel Number 3246. The minable area appears to be located outside of the SFHA. Any new development will need to comply with the National Flood Insurance Rate Program (NFIP) in accordance with the Pender County Unified Development Ordinance, and the Pender County Flood Damage Prevention Ordinance.

Site Access

The site is accessed via a twenty (20) foot wide road with direct access to Old River Road. Preliminary discussions with the NC Department of Transportation will not require the site to revise the existing driveway permit.

Hours of Operation

According to the applicant's narrative; the current hours of operation will be Monday through Friday from 7 AM until 6 PM. Some instances may require extra hauling hours this will be kept to a minimum. There is only one (1) employee who operates mining endeavors on site coordinating with contractors for material pick up. There is no facility on site for mining operations which would necessitate any water or septic needs in this Special Use Permit modification.

All other conditions of 10421 R/SUP 02-02-18-01 shall remain consistent for the entire project area including the new revision to include in total ± 37.149 acres; with any further modification to the mining area (size and/or depth) or any other change to this permit will require Pender County Board of Commissioners review and approval. The subject property must comply with all federal and state permits as applicable.

EVALUATION:

- A. Public Notifications:** Advertisements for the proposal have been placed in *The Pender Post/Topsail Voice*. Adjacent property owners were notified by first class mail and a public hearing sign was placed along the haul road and Old River Road.
- B. Basis for Granting SUP:** See Attachment A for approval procedures (§3.12.3 of Unified Development Ordinance) and revision and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. Unified Development Ordinance Compliance:** The property is currently zoned RA, Rural Agricultural District and Sand and Gravel Mining (NAICS Industry Code 212312) is permitted in RA via Special Use Permit. Additionally, the mining facility has been in operation since March of 2006.
- D. 2010 Comprehensive Land Use Plan Compliance:** The subject property is classified as Rural Growth and Suburban Growth in the *2010 Comprehensive Land Use Plan*.
- a. The Rural Growth land use classification defines those areas of the County where urban services such as public water and sewer are not expected to be provided, this limiting any surrounding residential development to low density. Incompatible residential and non-residential land uses in Rural Growth areas can be accommodated through spatial separation from existing residential development; the project area of the quarry on the subject property is surrounded from existing development to the east and southeast by significant buffer areas, and the areas to the southwest and north are undeveloped and are under permanent conservation restrictions.
 - b. The Suburban Growth land use classification identifies those areas of Pender County where significant residential growth is expected to occur within the planning horizon. Areas designated as Suburban Growth are located primarily adjacent to municipal planning jurisdictions and within or near high growth, unincorporated areas of the County, i.e., Hampstead/Scotts Hill, Rocky Point, and portions of US 421 South. Suburban Growth designates areas where public water and public sewer are available or are planned in the near future.

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

- **Policy 1A.1.5** – The County supports a pro-business/pro-growth attitude, balance by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.

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

- E. Existing Land Use in Area:** The majority of the existing land uses in the area surrounding the project site includes, low density residential uses and agricultural land. To the north, east

and south are large agricultural fields currently under cultivation. To the west are single family residential homes, with the closest residential structure \pm 1,400 feet from the current minable area.

F. *Site Access Conditions:* The property has direct access to Old River Road (SR 1411) via an existing haul road. At this time the North Carolina Department of Transportation is not requiring changes to the existing driveway permit.

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

1. The applicant shall submit to the Planning Department prior to a Final Zoning Permit being issued:
 - a. Approved Mining Permit from NC Land Quality
 - b. Approved Project Buffers
2. No project activity shall commence on the site including clearing and grading until a Final Zoning Permit has been issued.
3. The applicant shall submit one full size and one 11" x 17" revised site plan with the following items: Cross section indicating 5:1 slope horizontally, 15' beyond and 10' inside the final water elevation
4. One standard highway warning signs stating "Trucks Entering Highway" must remain permanently placed approximately 1,000 feet east and west of the mine entrance along Old River Road (SR 1411) for the duration of the project. Signs should meet all NCDOT sign and ROW encroachment standards.
5. The excavation shall be completed and the project closed out, providing a 5 to 1 slope horizontally, 15 feet beyond and 10 feet inside the final water elevation. No permanent slopes inside the project boundary shall exceed 3 to 1.
6. No land disturbing activities shall take place within 50 feet of any wetlands or beyond the designed project boundary.
7. No land disturbing activities shall take place within 100 feet of a cemetery.
8. A continuous buffer of at least 20 feet wide shall be maintained between the project boundary and all property boundaries. This buffer area shall contain existing canopy and/or understory trees with a height of eight (8) feet and a density of eight (8) trees per one hundred (100) feet or evergreen trees shall be planted to the required density where such do not exist.
9. A security gate shall be located and shown on the applicant's site plan and remain locked all times when the site is not attended.
10. Portable restrooms shall be maintained on site for the duration of the operation as necessary.
11. Any existing signs shall be in accordance with Section 15 of the Zoning Ordinance; any new signs shall be in accordance with Article 9 of the Pender County Unified Development Ordinance (UDO)
12. The project shall not result in any visible sedimentation beyond the project boundary.
13. No mining or earth disturbing activities shall take place outside the project boundary shown of this site plan.
14. The maximum depth of excavation shall not be lower than one and a half feet (1.5') above MSL. This elevation will be approximately 25.5 feet below the high point on the site that is located by surveyor elevation marker.
15. An elevation monument shall be maintained on the site for the duration of the permit.

16. The four (4) project boundary corners shown on the site plan shall be marked with posts eight (8) feet in length protruding five (5) feet above ground level with a diameter of no less than 3.5 inches. Additionally, boundary markers shall be placed in the project boundary line and spaced every 300 feet. The property boundaries shall be placed prior to commencing project activities.
17. A final stabilization/reclamation plan shall be submitted to the Planning Department as approved by the NC Cooperative Extension Services or SCS within 90 days of issuance of the zoning permit. The site seeding and stabilization shall be maintained until a 98% vegetative coverage has been achieved.
18. The property must be graded, seeded, stabilized and maintained in accord with the conditions of this permit and all state and federal permits.
19. The hours of operation for this project shall be limited to 7AM to 6PM, Monday through Friday. Traffic other than automobiles and light trucks (pickups) will not be permitted to enter or leave the site other than during the hours of operation.
20. The applicant shall be permitted to have an office located on the site. The office must comply with the Pender County Zoning Ordinance; any new development shall be subject to the requirements of the Pender County Unified Development Ordinance.
21. The term of this permit shall be valid for a period of 10 years from the date of issuance of a zoning permit (2012 Special Use Permit approval valid for ten (10) year term: until July 23, 2022), unless otherwise renewed by Pender County.
22. 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.
23. 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.
24. With the exception of the expanded mineable area, as previously described, all other conditions of 10198 R /SUP 05-11-21-15 shall remain in effect; with any further modification to the mining area (size and/or depth) or any other change to this permit will require Pender County Board of Commissioners review and approval.
25. Any new development within the "AE" or "AEFW" Special Flood Hazard Area (SFHA) will need to comply with the National Flood Insurance Rate Program (NFIP) in accordance with the Pender County Flood Damage Prevention Ordinance.

Attachment A

3.12.3 Procedures for Reviewing Applications

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

3.12.4 General Provisions Concerning Special Use Permits

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

APPLICATION FOR SPECIAL USE PERMIT

THIS SECTION FOR OFFICE USE

Application No.	SUP 10198 R2	Date	12/5/2014
Application Fee	\$ 750	Receipt No.	
Pre-Application Conference	12/5/2014	Hearing Date	1/20/2015 BOC

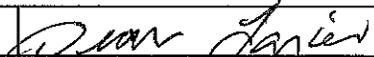
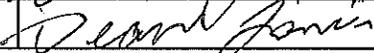
SECTION 1: APPLICANT INFORMATION

Applicant's Name:	Dean Lanier	Owner's Name:	Dean Lanier
Applicant's Address:	9265 Old River Road	Owner's Address:	9265 Old River Road
City, State, & Zip	Burgaw, NC 28425	City, State, & Zip	Burgaw, NC 28425
Phone Number:	910-620-6351	Phone Number:	910-620-6351
Legal relationship of applicant to land owner: applicant is owner			

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	3246-58-4158-0000	Total property acreage:	133.83
Zoning Classification:	RA Rural Agricultural	Acreage to be disturbed:	22.28 Additional Disturbed / 24.85 Additional Permitted
Project Address :	9265 Old River Road, Burgaw, NC 28425		NAICS Code: 2123
Description of Project Location:	Left on old River Road off of 117 S then travel 4.6 miles. Destination on the right.		
Describe activities to be undertaken on project site:	Add 24.849 Acres to existing permitted sand mine.		
	Sand loaded into trucks and then hauled off site.		

SECTION 3: SIGNATURES

Applicant's Signature		Date:	12-4-14
Owner's Signature		Date:	12-4-14

NOTICE TO APPLICANT

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

Office Use Only

<input type="checkbox"/> 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 Application#: 10198R2 Date of Hearing: 1/20/2015 BOC
---	---

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
---------------------------	--	-----------	------------	------------	-------------------------	--

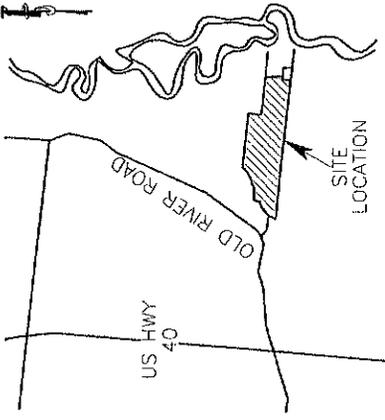
Payment Method:	Cash : <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input checked="" type="checkbox"/> Check # 6246
------------------------	--	--	---

Application received by:	Megan Thibodeau	Date:	12/5/2014
Application completeness approved by:	Megan Thibodeau	Date:	12/5/2014

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: <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 checked="" 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 checked="" 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 readable 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: <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



VICINITY MAP
Not To Scale

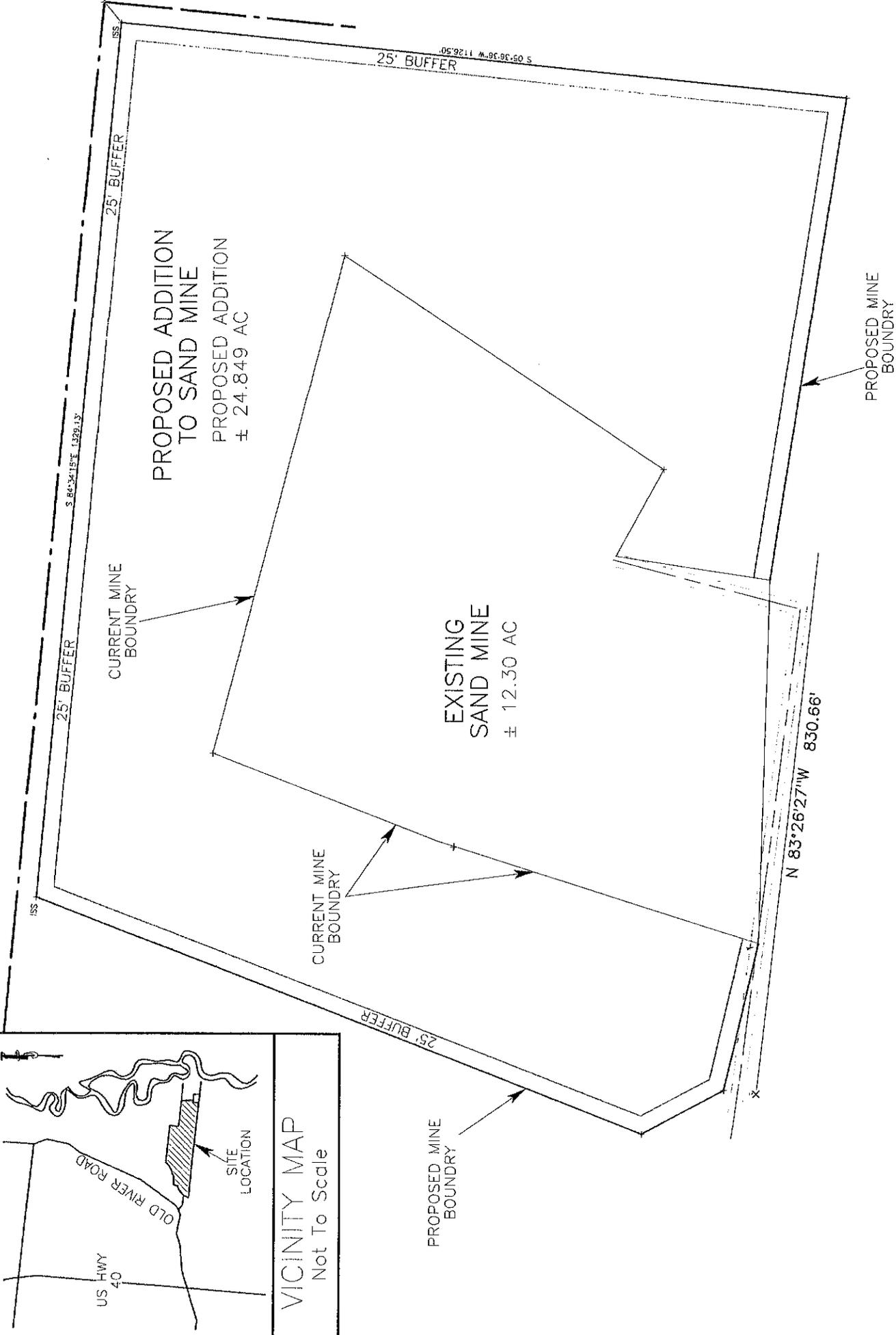


Figure 3	Project Dean Lanier	Title Mine & Property Map	Project # 20063
Date 05/16/12	Scale 1" = 200'	Drawn by DAT	

WALTON ENGINEERING
(910) 259-4800

December 1, 2014

Re: Special Use and Mining Permit Modification Application for Cape Fear Sand Mine

To whom this may concern,

Dean Lanier of Cape Fear Sand Mine is applying for a modification of his sand mining operation. The site is off Old River Road in Pender County. . The 12.3 Acre mine is already permitted and has been operational since March of 2006. The owner is applying for a modification of the special use permit and mining permit to increase the mine area. The additional proposed acreage is 24.849 Acres. The current NPDES Permit # is NCG02000. The Mining Permit # is 74-43.

This proposal meets the special use approval standards.

1. The area is currently zoned as "Rural Agricultural". Mining for sand is consistent with rural agricultural land use.
2. The impact to the community will be minimal. As can be seen from the site location map, the work will occur at a significant distance from surrounding residences. As such, noise, vibration, or any other such consequences of equipment operation pertinent to the project is expected to have minimal or no impact to the community.
3. The proposed mine will not create a public nuisance because it is surrounded by farmland and is not visible to any of the surrounding property owners.

Warning signs will be posted along permitted project boundaries. No utilities or structures (except for an existing equipment shed) will be required for the completion of the project. Dean Lanier will provide all necessary equipment.
4. The requested use conforms to Pender County's Land Use Plan. The NAICS Code for mining is 2123.
5. Adequate utilities, access roads, drainage, sanitation and other necessary facilities have been provided. No utilities are needed. The only access to the project site is down an established 20' wide dirt road. Regarding Drainage: Water that collects in the mine pit will be pumped out into an existing outfall ditch on the subject property. Sediment from the water will be collected in ditch by use of a rock dams and a flashboard riser in the ditch. The water will flow out of the flashboard riser and flow south approximately 3,000 feet into Pike Creek. The areas around the mine pit will be maintained so that rainwater and runoff water from stockpiles will flow into the mine pit. When mining is completed, the entire mine area will

form a pond per the reclamation plan in the State Mining Permit Application. Sanitation: a portable toilet is maintained on site.

6. The only access to the project site is down an established 20' wide dirt road. The access road will be blocked by a locking cable or steel gate when not in use. . The operation hours will be place Monday through Friday from 7 a.m. to 6 p.m, except for instances where extra hauls are required, which are expected to be minimal. Traffic is expected to remain consistent with current traffic in the project vicinity in the form of haul trucks moving on and off site. Old River Road is already a well-established state road with ample capacity for truck traffic.

7. The special use conforms to the applicable regulations of the district in which it is located. The use does not require domestic water supply or sewage disposal. There are no structures to be constructed.

8. The proposed use does not adversely affect surrounding uses and is be placed on a lot of sufficient size to satisfy the space requirements of the sand mine. Impacts to surrounding and adjoining properties will be minimized as follows. During mining, in order to minimize erosion, the mine slope and all stock-pile and buffer areas will be sloped so that water and sediments will flow back into the mine pit. Silt fencing will be used as needed, however it is not anticipated. The mining process will consist solely of digging unconsolidated material (soil only, no stone), loading the material into dump trucks and hauling off-site. Equipment to be used will be limited to excavators, front-end loaders, dump trucks, and tractors. There will be no screening, crushing, explosives or other such operations. The total property acreage is 133.83 Acres. The proposed area that will be disturbed is 22.28 Acres.

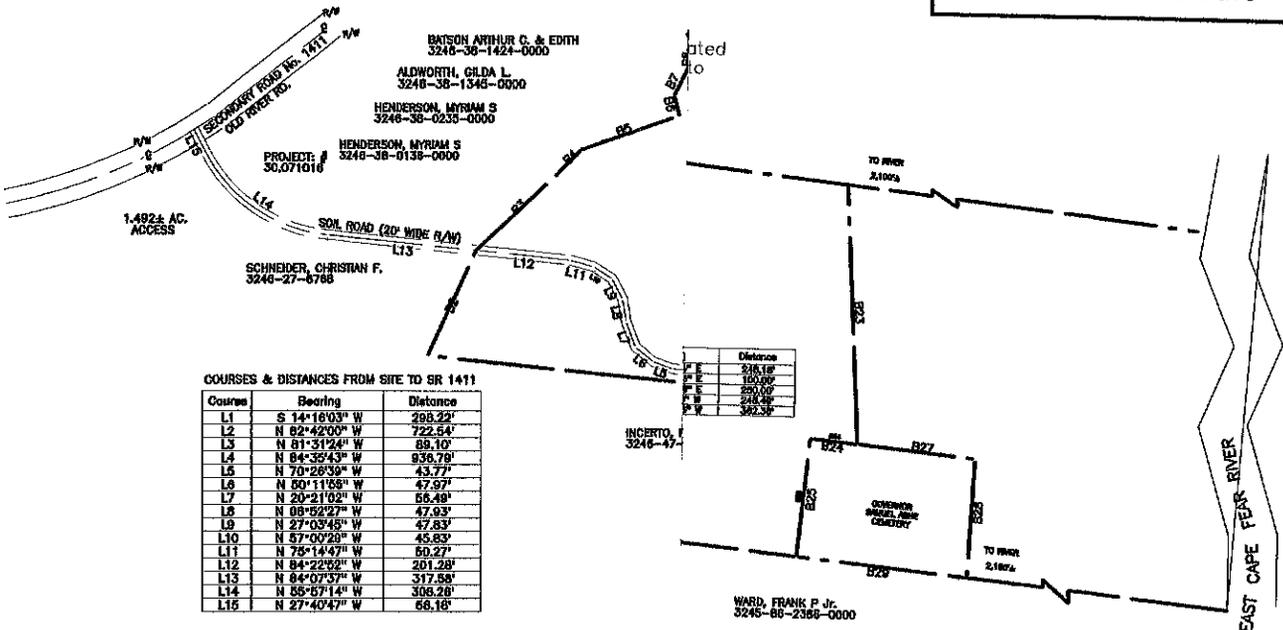
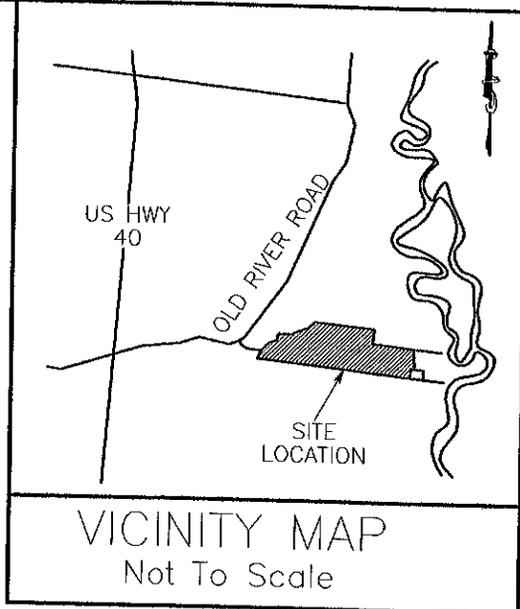
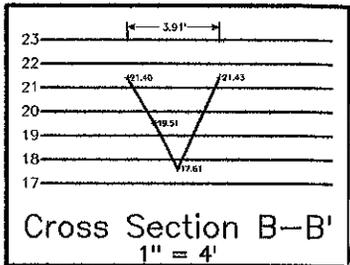
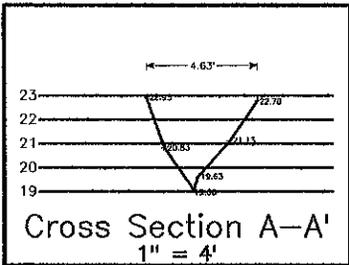
Enclosed is the project plan and a check for the Special Use Permit fee of \$750.00.

If you have any questions, please call me at 910-259-4800.

Sincerely,



Allen Thornton



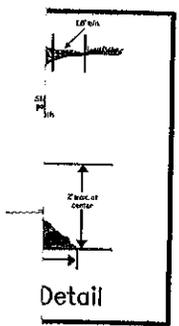
COURSES & DISTANCES FROM SITE TO SR 1411

Course	Bearing	Distance
L1	S 14°16'03" W	298.22'
L2	N 82°42'00" W	722.54'
L3	N 81°31'24" W	88.10'
L4	N 84°35'43" W	936.79'
L5	N 70°28'39" W	43.77'
L6	N 50°11'55" W	47.97'
L7	N 20°21'02" W	56.48'
L8	N 08°52'27" W	47.83'
L9	N 27°03'45" W	47.83'
L10	N 57°00'20" W	45.83'
L11	N 75°14'47" W	50.27'
L12	N 84°22'52" W	201.28'
L13	N 84°07'35" W	317.58'
L14	N 85°57'14" W	306.26'
L15	N 27°40'47" W	66.18'

Point	Distance
P	216.16'
E	150.00'
S	250.00'
W	342.36'

NOTES:

1. Drains to Northeast Cape Fear River, Class C-SW.
2. Located in Flood Zone C, areas of minimal flooding. Pender County FIRM 370344 0350 C, June 5, 1989.
3. Private pit, to be permitted by NC DENR, Division of Land Resources.
4. There are no wetlands within 50' of the area to be mined.
5. All stockpiles will be within mine boundary, locations will change as mine expands. No stockpiles will be within 350.00' of the property lines.
5. No Areas of Environmental Concern are located on the property.
 1. Landowner: Kenneth D. Lanier et al
 2. Deed Book 588 p.266
 3. Mailing Address: 9265 Old River Rd. Burgaw NC, 28425



Course	Bearing	Distance
B1	N 84°18'00" W	1627.62'
B2	N 24°54'10" W	212.72'
B3	N 47°02'24" W	332.00'
B4	N 47°02'24" W	87.83'
B5	N 71°00'00" W	816.79'
B6	N 08°52'27" W	43.77'
B7	N 20°21'02" W	47.97'
B8	N 08°52'27" W	47.83'
B9	N 27°03'45" W	47.83'
B10	N 57°00'20" W	45.83'
B11	N 75°14'47" W	50.27'
B12	N 84°22'52" W	201.28'
B13	N 84°07'35" W	317.58'
B14	N 85°57'14" W	306.26'
B15	N 27°40'47" W	66.18'
B16	N 27°40'47" W	120.46'
B17	N 67°28'14" W	273.84'
B18	N 84°07'35" W	317.58'
B19	N 85°57'14" W	306.26'
B20	N 27°40'47" W	66.18'
B21	S 00°00'00" W	365.27'
B22	S 00°00'00" W	115.00'
B23	N 84°07'35" W	180.00'
B24	N 85°57'14" W	216.16'
B25	N 27°40'47" W	183.49'

Site & Property Map
by: BPT/DAT

WALTON ENGINEERING
PO Box 895, Burgaw, NC 28425 (910) 259-4800



Applicant:
Walton Engineering

Owner:
Dean Lanier

Special Use Permit
Modification

Sand & Gravel Mining
NAICS Industry Code
212312

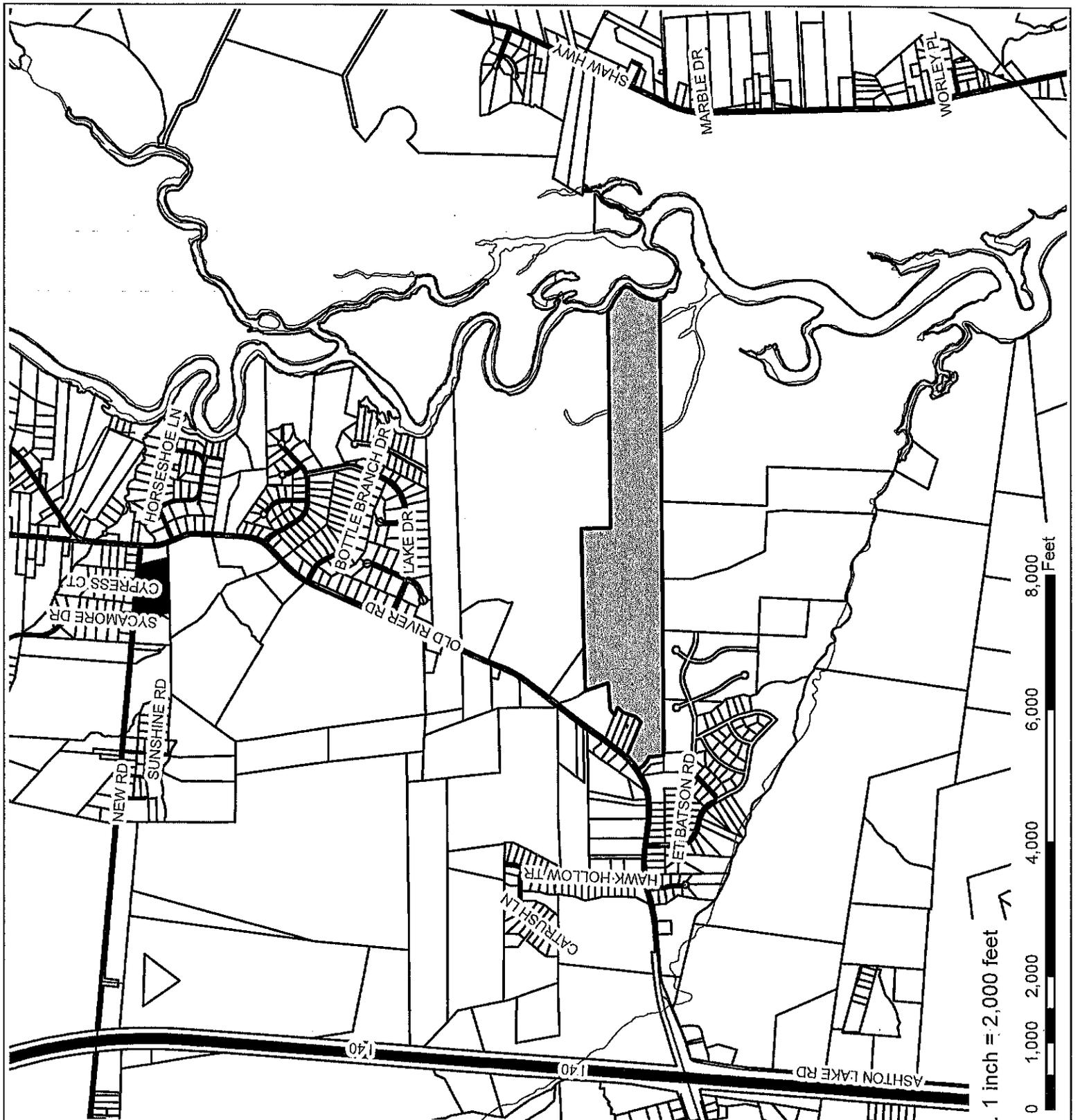
Case
10198 R2

Legend

-  Subject Property



VICINITY MAP





Applicant:
Walton Engineering

Owner:
Dean Lanier

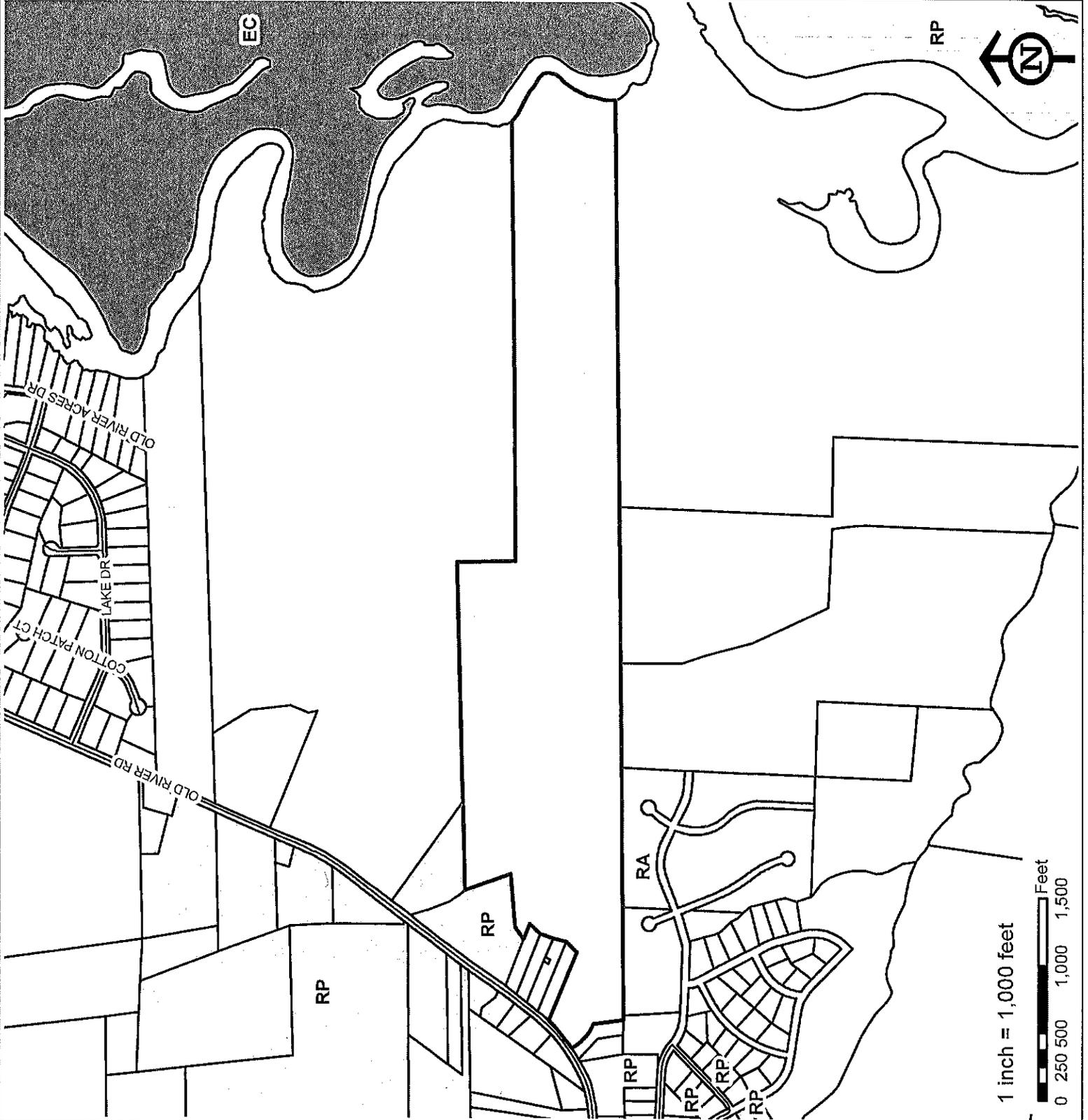
**Special Use Permit
Modification**

**Sand & Gravel Mining
NAICS Industry Code
212312**

**Case
10198 R2**

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

CURRENT ZONING





Applicant:
Walton Engineering

Owner:
Dean Lanier

Special Use Permit
Modification

Sand & Gravel Mining
NAICS Industry Code
212312

Case
10198 R2

Legend

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

2010
Comprehensive
Future Land Use





Applicant:
Walton Engineering

Owner:
Dean Lanier

Special Use Permit
Modification

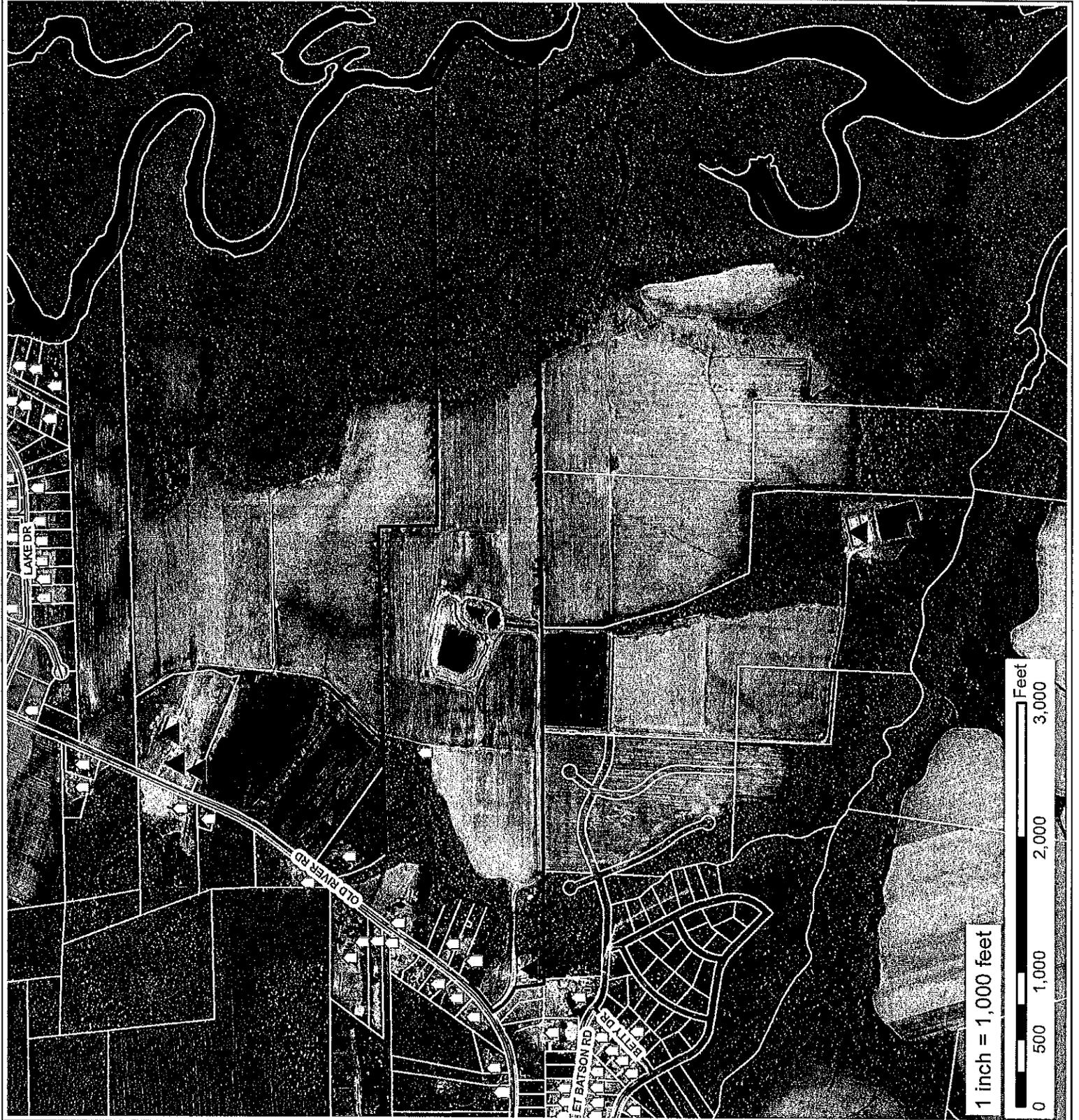
Sand & Gravel Mining
NAICS Industry Code
212312

Case
10198 R2

Legend
 Subject Property



2010 AERIAL





Applicant:
Walton Engineering

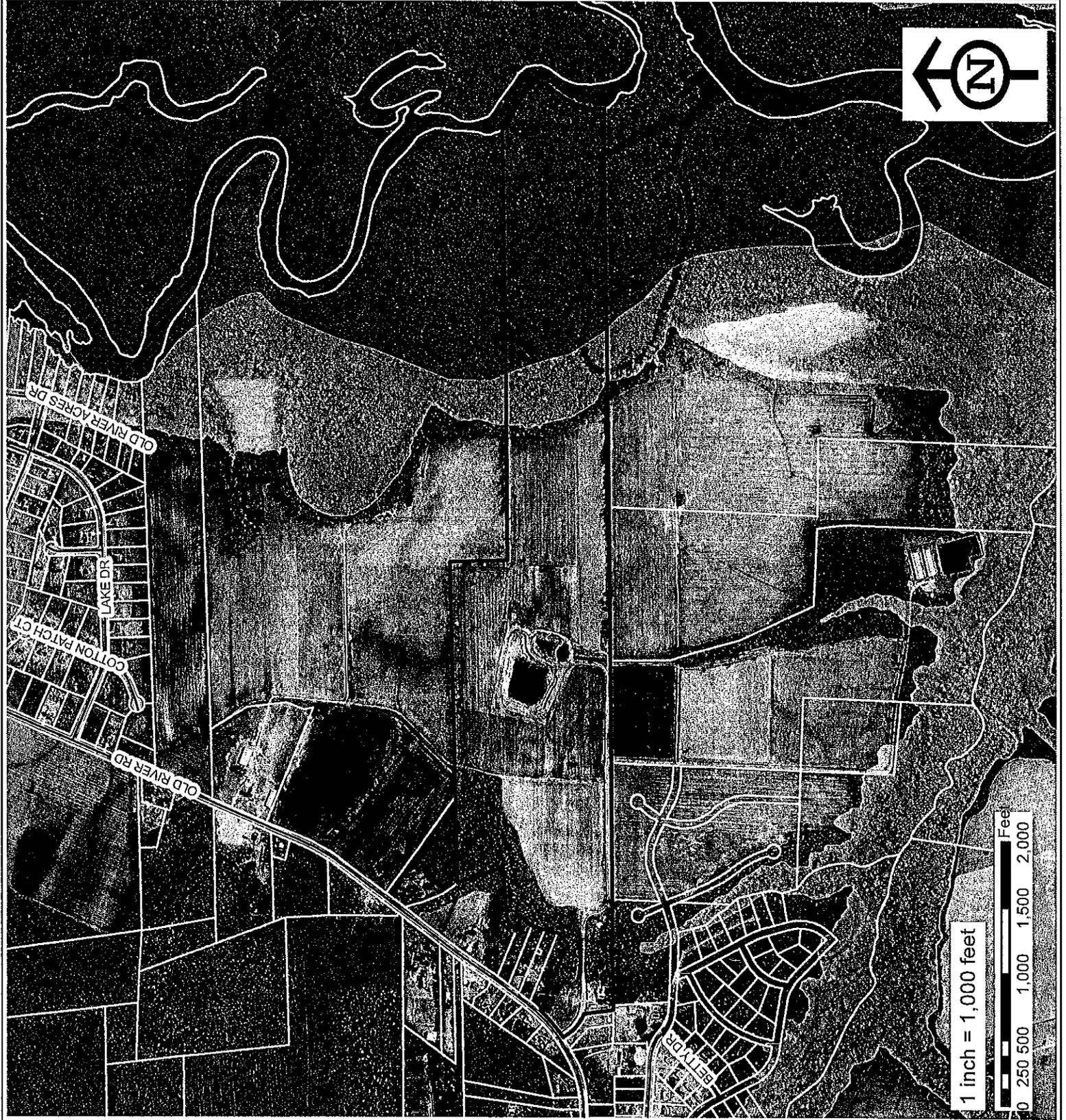
Owner:
Dean Lanier
Special Use Permit
Modification

**Sand & Gravel Mining
NAICS Industry Code
212312**

**Case
10198 R2**

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

Flood Hazard Areas



10198

PENDER COUNTY
SPECIAL USE PERMIT APPLICATION FORM
THIS SECTION FOR OFFICE USE

Application No.	05-11-21-15	Date	9-30-05
Permit Fee		Receipt No.	

APPLICANT INFORMATION

Applicant Name	Mark Walton	Owner Name	Dean Lanier
Address:	PO Box 895 Burgaw, NC 28425	Address:	138 Old Point Rd. Hampstead, NC 28443
Phone No:	910-259-4800	Phone No:	910-620-6351
Legal relationship of applicant to owner:	Engineer		

PROJECT INFORMATION

Property tax record No.	3246-58-4158-0000	Total acreage	133.83
Zoning Designation:	RA	In property:	
Acreage to be used for project:	8.00	Acreage to be disturbed:	8.00
Project location and address:	9265 Old River Rd. Burgaw, NC - 28425		
Describe activities to be undertaken on project site: Sand mining will be done and the site will be reclaimed as a private recreation pond.			

SIGNATURES

Applicant:	Date:	Owner:	Date:
<i>Dean Lanier</i>	09/30	<i>Dean Lanier</i>	09/30

NOTICE TO APPLICANT

1. Applicant must also submit the information described on page two of this form.
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(p. 3).

WALTON ENGINEERING

September 29, 2005

Mr. Stephen Carpenter
Pender County Planning Director
Pender County Planning Department
PO Box 832
Burgaw, NC 28425

Re: Special Use Permit Application for Cape Fear Sand Mine

Dear Mr. Carpenter,

This letter serves as the narrative description for the subject Special Use Permit application. The application is being made for the purposes of sand mining on a 133.83 acre tract of land zoned RA. All mining will occur on a 8.00 acre area of land (See Figure 2). The site is off Old River Road in Pender County. Acreage was taken from a survey done by Thompson Surveying Co. The acreage was determined and checked for accuracy using a computer/CADD program analysis. A state mine permit is being submitted in conjunction with this Special Use Permit.

Impacts to surrounding and adjoining properties will be minimized as follows. During mining, in order to minimize erosion, the mine slope and all stock-pile and buffer areas will be sloped so that water and sediments will flow back into the mine pit. Silt fencing will be used as needed, however it is not anticipated. The mining process will consist solely of digging unconsolidated material (soil only, no stone), loading the material into dump trucks and hauling off-site. Equipment to be used will be limited to excavators, front end loaders, dump trucks, and tractors. There will be no screening, crushing, explosives or other such operations. During mining areas of active excavation will be kept dry by pumping water into a settling pond. Therefore the active excavation areas could be described as "dry" mining. The settling pond size shown will be a minimum of 0.899 acres (See Figure 2). The area to be mined will be reclaimed as aesthetic pond, for private recreational use, according to Figure 3. The pond will result as a natural occurrence of the pit being below the water table. The total depth being 25 feet below grade and the water table being approximately 5.5 feet below grade (23.9 M.S.L.). Some areas in the finished pond may be less than 15 feet deep to provide structure for fish. Slopes above the water table will be seeded with grass. Seeding will be done in accordance with specifications included in this report. An approved reclamation plan letter from Mr. Matthew Martin has been included. No wastes will be produced at the site except due to equipment maintenance. Such wastes will be properly disposed of at county waste collection centers.

The nearest surface water body, Pike Creek, drainage classification C-SW, is approximately 2,500 feet east of the subject site. Hydrology in the area should not be effected. Water will be

WALTON ENGINEERING

pumped into a minimum 0.899 acre holding pond, during mining, so that the water can percolate back into the ground. The holding pond will be separated by building a 25 feet wide earth berm. The berm will be removed after the mining operation has been completed, resulting in an approximately five acre pond. Based on design calculations, a 0.899 acre infiltration/retention pond will be sufficient to infiltrate all water pumped from the mine pit, excluding rainfall and side-wall infiltration. Overflow from the pond will discharge through an existing 12" drain pipe into an existing ditch that leads to Pike Creek and ultimately to the Northwest Cape Fear River

The proposed mine will not create a public nuisance because it is over 600 feet from the nearest residence and water supply well. The subject site is also surrounded by farm land and is not visible to any of the surrounding property owners.

The only access to the project site is down an established 20' wide dirt road. The access road will be blocked by a locking cable or steel gate when not in use.

Warning signs will be posted along permitted project boundaries. No utilities or structures (except for an existing equipment shed) will be required for the completion of the project. All necessary equipment will be provided by Dean Lanier.

The impact to the community will be minimal. As can be seen from the site location map (Figure 4), the work will occur at a significant distance from surrounding residences. As such, noise, vibration, or any other such consequences of equipment operation pertinent to the project is expected to have minimal or no impact the community. The operation hours will be place Monday through Friday from 7 a.m. to 6 p.m, except for instances where extra hauls are required, which are expected to be minimal. The project is planned for a duration of ten years and will be undertaken by Dean Lanier. Traffic is expected to increase in the project vicinity in the form of haul trucks moving on and off site, however Old River Road is already a well established state road with ample capacity for truck traffic.

Mr. Lanier requests that this application be on the agenda for the Monday October 17, 2005 Board of Commissioners meeting. As such, we have made a diligent effort to provide everything required for a complete application. Hopefully, any additional requirements can be included as conditions of the Special Use Permit.

If you have any questions or need additional information please call me at 910-259-4800.

Sincerely,



Brian Terlep

INTRODUCED BY: Stephen Carpenter DATE: November 21, 2005

ITEM NO: 27

TITLE: Special Use Permit For Borrow Pit Mining.

SUBJECT: CASE NO: 05-11-21-15
 PROPERTY RECORD NO: 3246-58-4158-0000
 APPLICANT: Mark Walton
 OWNER: Dean Lanier

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

HISTORY/BACKGROUND:

Project Location: The project site is located on the east side of Old River Road approximately 1.5 mile east of US Hwy 117 S, Burgaw, NC.

Project Description: The project consists of the excavation of 8.00 acres of a 133.83-acre tract for the mining of sand. Digging will be performed solely by excavators. No dragging, dredging, screening, crushing, explosive or other such operations are proposed. The excavation is proposed to extend to a depth of no lower than 1.1 ft. below MSL or approximately 25 ft. below the survey established high point on the site of 23.9 ft above MSL. Overflow from the settling pond will discharge through an existing 12" drainpipe into an existing ditch that leads to Pike Creek and ultimately to the Northwest Cape Fear River. The mined area will be reclaimed as a pond for the private recreational use of the owner. The applicant is proposing to have three (3) employees and hours of operation are to be 7:00 a.m. to 6:00 p.m. Monday through Friday. Access to the pit will be along a 20' wide haul road that will run from Old River Road to the pit. (See attached applicant project narrative).

Stated Reclamation Purpose: The final proposed reclamation use for the site is for a pond for the owners use.

EVALUATION:

- A) Public Notifications:* Advertisements for the proposal have been placed in the Topsail Voice and Pender Post. Adjacent property owners were notified by first class mail. (See certification attached)
- B) Zoning Ordinance Compliance:* This property is zoned R20 Residential, RA, Rural Agriculture, and FA Flood Area. Borrow Pit Mining is allowed by Special Use Permit in the RA and FA zones upon determination that the proposal complies with the eight criteria contained in Section 15.3 of the Zoning Ordinance, required for approval of a special use permit, including conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners. Borrow Pit Mining is not allowed in the R20 zoning classification, but all mining operations will be limited to the RA zone.
- C) 2005 Land Use Plan Compliance:* This property is classified as an Urban Growth Area, as well as a Rural Area. Given the requirement to submit an approved reclamation plan that will provide for site reclamation that is compatible with existing uses adjacent to the site and given that all mining operations will take place within the Rural Area classification, the project is not inconsistent with the 2005 Land Use Plan.
- D) Existing Land Use In Area:* The primary land use in the surrounding area is agricultural and forestry. There are two residential structures west of the site, and numerous homes are located on the west side of Old River Road north, south and across from the mine entrance.
- E) Site Access Conditions:* The project site will be accessed from Old River Road via a 20' wide unpaved haul road that will run along the southern property line to the proposed pit. The site has direct access to Old River Road, a state maintained public road (S.R. 1411).
- F) Conditions To Consider In Issuing A Special Use Permit For This Project:*
1. The applicant shall submit the following items to the Planning Department prior to a Zoning Permit being issued:
 - a. Approved Mining Permit from NC Land Quality.
 - b. Approved Driveway Permit from NCDOT.
 2. No project activity shall commence on the site including clearing and grading until a Final Zoning Permit has been issued.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on November 21, 2005 the Pender County Board of Commissioners considered a Special Use Permit for a Borrow Pit Mine for Mark Walton as described herein and Eugene Meadows, Chairman to the Board, is authorized to execute the order implementing this resolution and provide notice to the applicant of the action taken herein.

AMENDMENTS:

MOVED Holland SECONDED Williams

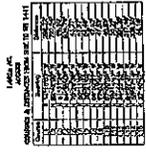
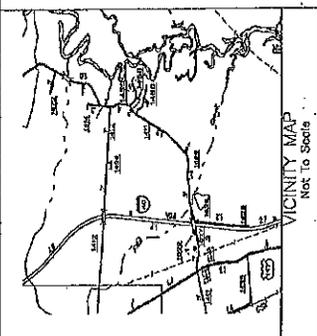
APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Meadows _____ Holland _____ Moore _____ Rivenbark _____ Williams _____

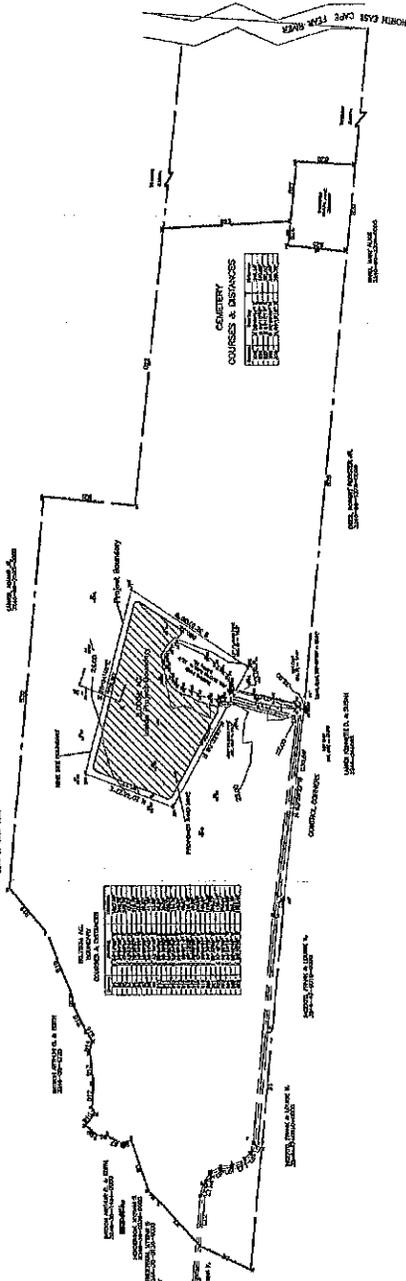
Eugene R. Meadows 11-21-05
Eugene Meadows, Date
Chairman

[Signature]
ATTEST

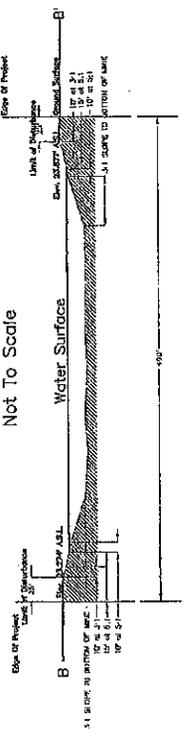
11-21-05
Date



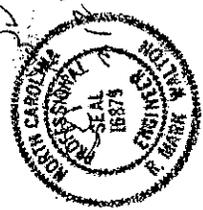
Symbol	Description
[Symbol]	Proposed Road
[Symbol]	Proposed Water
[Symbol]	Proposed Structure
[Symbol]	Proposed Boundary
[Symbol]	Proposed Easement
[Symbol]	Proposed Right-of-Way



RECLAMATION CROSS SECTION Not To Scale



- NOTES:
1. Utility to Northwest Corner from Utility, Class C-50K.
 2. Located in Flood Zone G, an area of confined flooding.
 3. Flood Hazard Determination is based on FEMA Flood Insurance Study No. 17050-0101, dated 10/10/83.
 4. There are no wetlands within 50' of the area to be reclaimed.
 5. An Environmental Assessment/Statement will be submitted to the U.S. Army Corps of Engineers for their review and approval.
 6. All structures will be within 100' of the boundary.
 7. No Areas of Environmental Concern are located on the property.
 8. The project boundary/line of reference line shall be the line shown on the site plan and shall be a clear, additional boundary markers shall be placed in the project boundary line and spaced every 200' ft.
 9. Landowner: Kenneth D. Lanier et al
 10. Deed Book 686 p.286
 11. Mailing Address: 138 Old Point Rd, Hempstead NC, 28543

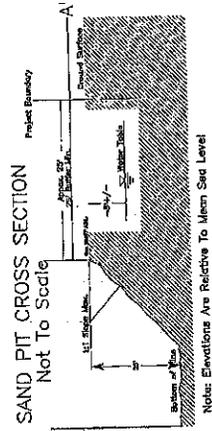
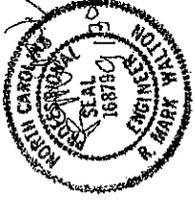
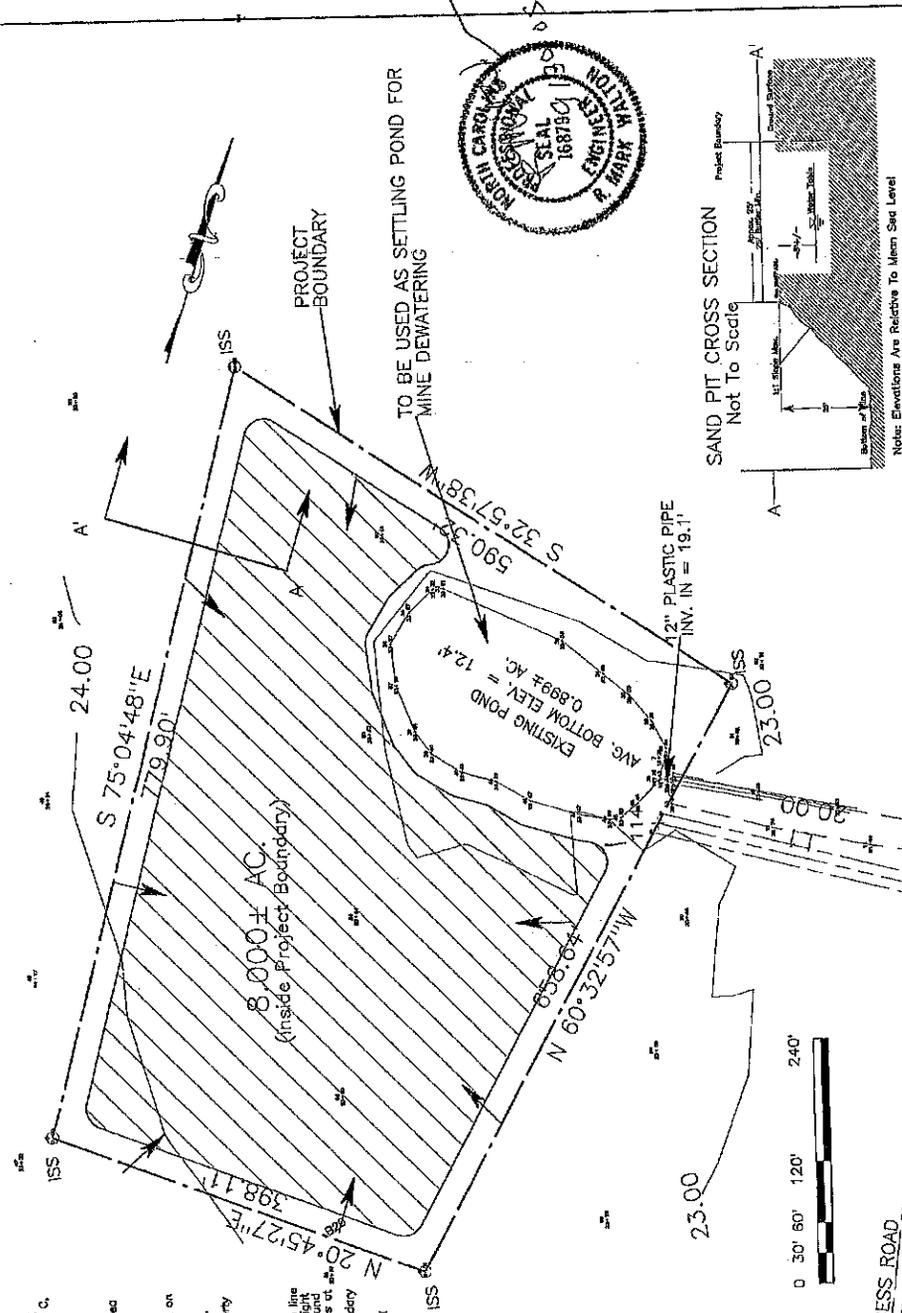


WALTON ENGINEERING
(910) 259-4800
Project #: 20053

Figure: 1
Project: Dean Lanier
Title: Site Plan
Scale: 1" = 500'
Date: 05/21/05
Drawn by: BPTIRMMW

Revised: 03/24/05

1. Drains to Cape Fear, Class C-SM.
2. Located in Flood Zone C, areas of minimal flood hazard. County Form 3703/44 03/30 C, June 5, 1988.
3. Plans will be permitted by NC DENR, Division of Land Resources.
4. There are no wetlands within 50' of the area to be mined.
5. A permanent elevation improvement will be required for the proposed location of the Land Surveyor. The proposed location can be seen on plans.
6. All sticophiles will be within mine boundary, locations will change as mine expands. No sticophiles will be within 350.00' of the property lines.
7. No Areas of Environmental Concern are located on the property.
8. The project boundary/limit of disturbance line shall be marked on the ground with a survey level with a diameter no less than 3.5 inches at all corners and turns. Additional boundary lines shall be marked every 500 ft.
9. The project site will be graded so that all surface runoff drains into the mine pit.



WALTON ENGINEERING (910) 259-4800 Project #: 20053	
Title: Mine Plan	Drawn BY: BPT
Figure 2	Date: 09/21/05
Project: 09/21/05	Scale: 1" = 240'
Dean Lanier	Project #: 20053



REQUEST FOR BOARD ACTION

ITEM NO. 30.

DATE OF MEETING: July 23, 2012

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

SHORT TITLE: Resolution Requesting Approval of Major Revisions to an Existing Special Use Permit (SUP) for the Operation of a Sand Borrow Pit Mine. The Revisions are to Amend an Existing Condition Extending the Term of the Permit and to Expand the Movable Area.

BACKGROUND: Walton Engineering, applicant, on behalf of Dean Lanier, owner is requesting approval of a major revision to an existing Special Use Permit (SUP) issued November 21, 2005 (SUP 05-11-21-15/ 10198). The SUP was issued for the construction and operation of a Sand Borrow Pit Mine, conditioned with a ten (10) year expiration date and a minable area of 8.0 acres. The requested revisions will modify the aforementioned conditions to allow for another ten (10) year term for the SUP and to allow the minable area to be expanded an additional 5.63 acres. These are the only requested revisions to the SUP. The property is currently zoned RA, Rural Agricultural District and may be identified by Pender County PIN 3246-58-4158-0000. The subject property is located at 9265 Old River Road, Burgaw. There is one (1) tract associated with this request totaling ± 113.83 acres. In accordance with Article 3.12.4.H of the Pender County Unified Development Ordinance, major revisions to Special Use Permits must be submitted to the Board of Commissioners.

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

RESOLUTION

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on July 23, 2012 the Pender County Board of Commissioners (approved, ~~modified, denied~~) resolution requesting approval of a major revision to an existing special use permit (SUP) for the operation of a sand borrow pit mine. The revision is to amend an existing condition extending the term of the permit and expand the minable area, as described herein. and the Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED Rivenbark SECONDED Williams

APPROVED X DENIED _____ UNANIMOUS

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

George R. Brown 07/23/2012
George R. Brown, Chairman Date

[Signature] 07/23/2012
ATTEST Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: July 23, 2012
Applicant: Walton Engineering
Property Owner: Dean Lanier
Case Number: 10198 R (SUP 05-11-21-15)

Land Use Proposed: The applicant is requesting approval of a major revision to an existing Special Use Permit (10198 R /SUP 05-11-21-15) for the construction and operation of a Sand Borrow Pit Mine conditioned with a ten (10) year expiration date and a minable area of 8.0 acres.

Property Record Number and Location: The subject property is located at 9265 Old River Road, Burgaw and may be identified by Pender County PIN 3246-58-4158-0000. There is one (1) tract associated with this request totaling \pm 113.83 acres.

Zoning District of Property: The property is currently zoned RA, Rural Agricultural District and Construction Sand and Gravel Mining (NAICS Industry Code 212312) is permitted in the RA, Rural Agricultural District via Special Use Permit. Additionally, the mining facility has been in operation since March of 2006.

PROJECT HISTORY:

On November 21, 2005 a Special Use Permit was approved by the Pender County Commissioners for the construction and operation of a Sand Borrow Pit Mine, to be located at 9265 Old River Road, Burgaw.

PROJECT DESCRIPTION:

The applicant, Walton Engineering, on behalf of the owner, Dean Lanier, is requesting approval of a major revision to an existing Special Use Permit (SUP) issued November 21, 2005 (SUP 05-11-21-15/ 10198). The SUP was issued for the construction and operation of a Sand Borrow Pit Mine, conditioned with a ten (10) year expiration date and a minable area of 8.0 acres. The requested revisions will modify the aforementioned conditions to allow for another ten (10) year term for the SUP and to allow the minable area to be expanded an additional 5.63 acres. These are the only requested revisions to the SUP. The current SUP allows for the excavation of \pm 8.0 acres of a 113.83 acre tract for the mining of fill materials (dirt and sand). The property is currently zoned RA, Rural Agricultural District and may be identified by Pender County PIN 3246-58-4158-0000. The subject property is located at 9265 Old River Road, Burgaw. There is one (1) tract associated with this request totaling \pm 113.83 acres.

On March 7, 2006, the North Carolina Department of Environment and Natural Resource (NC DENR), Division of Land Resources issued Mining Permit Number 74-43 for this project. According to NC DENR, Division of Land Resources, the modification to the existing permit is currently under review and no Notice of Violations (NOV) have been issued for this operation.

As prescribed in the Special Use Permit issued on November 21, 2005 the maximum depth of excavation shall not lower than 1.1 feet above mean sea level (MSL) or approximately 25 feet below the (survey monument) high point on the site of 23.9 feet above MSL.

According to the existing SUP, mining of the resources (sand) will occur solely by excavators; no dragging dredging, screening, crushing, explosives, or other removal operations will occur on this site.

Portions of the subject property are located within the "AE" and "AEFW" Special Flood Hazard Area (SFHA) along the Northeast Cape Fear River and its tributaries, according to the February 16, 2007 FEMA Flood Insurance Rate Maps (FIRMs), Map Number 3720324600J, Panel Number 3246. Any new development will need to comply with the National Flood Insurance Rate Program (NFIP) in accordance with the Pender County Unified Development Ordinance, Article 9, Flood Damage Prevention.

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

EVALUATION:

- A. **Public Notifications:** Advertisements for the proposal have been placed in *The Pender Post/Topsail Voice*. Adjacent property owners were notified by first class mail and a public hearing sign was placed along the haul road and Old River Road.
- B. **Basis for Granting SUP:** See attachment A for approval procedures (§3.12.3 of Unified Development Ordinance) and revision and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. **Unified Development Ordinance Compliance:** The property is currently zoned RA, Rural Agricultural District and Construction Sand and Gravel Mining (NAICS Industry Code 212312) is permitted in RA via Special Use Permit. Additionally, the mining facility has been in operation since March of 2006.
- D. **2005 CAMA Land Use Plan Compliance:** The subject property contains four (4) land use classifications found in the 2005 CAMA Land Use Plan, including Rural Areas, Urban Growth Areas and Conservation Areas I and II. According to the Pender County GIS, 2010 color orthophotography, it appears the extraction activities are limited to areas classified as Rural Areas, which provides for business traditionally associated with rural farm areas and extraction activities.
- E. **2010 Comprehensive Land Use Plan Compliance:** The subject property is classified as Rural Growth and Suburban Growth in the *2010 Comprehensive Land Use Plan*.
 - a. The Rural Growth land use classification defines those areas of the County where urban services such as public water and sewer are not expected to be provided, this limiting any surrounding residential development to low density. Incompatible residential and non-residential land uses in Rural Growth areas can be accommodated through spatial separation from existing residential development; the project area of the quarry on the subject property is surrounded from existing development to the

east and southeast by significant buffer areas, and the areas to the southwest and north are undeveloped and are under permanent conservation restrictions.

- b. The Suburban Growth land use classification identifies those areas of Pender County where significant residential growth is expected to occur within the planning horizon. Areas designated as Suburban Growth are located primarily adjacent to municipal planning jurisdictions and within or near high growth, unincorporated areas of the County, i.e., Hampstead/Scotts Hill, Rocky Point, and portions of US 421 South. Suburban Growth designates areas where public water and public sewer are available or are planned in the near future.

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

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

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

- F. *Existing Land Use in Area:* The majority of the existing land uses in the area surrounding the project site includes, low density residential uses and agricultural land. To the north, east and south are large agricultural fields currently under cultivation. To the west are single family residential homes, with the closest residential structure approximately 1, 400 feet from the current minable area.
- G. *Site Access Conditions:* The property has direct access to Old River Road via an existing haul road. At this time the North Carolina Department of Transportation is not requiring changes to the existing driveway permit.
- H. *Conditions To Consider In Issuing the Special Use Permit For This Project:*
 1. The applicant shall submit to the Planning Department prior to a Final Zoning Permit being issued:
 - a. Approved Mining Permit from NC Land Quality
 - b. Approved Driveway Permit from the NCDOT
 2. No project activity shall commence on the site including clearing and grading until a Final Zoning Permit has been issued.
 3. The applicant shall submit one fill size and one 11" x 17" revised site plan with the following items: Cross section indicating 5:1 slope horizontally, 15' beyond and 10' inside the final water elevation
 4. The project access-entrance at Old River Road shall be constructed, stabilized and maintained with a road base of aggregate base course as required by the NC DOT secondary roads for a distance of 75 feet beyond the edge of pavement.

5. Two standard highway warning signs stating "Trucks Entering Highway" will be permanently placed approximately 1000 feet east and west of the mine entrance along Old River Road for the duration of the project. Signs should meet all NCDOT sign and ROW encroachment standards.
6. The excavation shall be completed and the project closed out, providing a 5 to 1 slope horizontally, 15 feet beyond and 10 feet inside the final water elevation. No permanent slopes inside the project boundary shall exceed 3 to 1.
7. No land disturbing activities shall take place within 50 feet of any wetlands or beyond the designed project boundary.
8. No land disturbing activities shall take place within 100 feet of a cemetery.
9. A continuous buffer of at least 20 feet wide shall be maintained between the project boundary and all property boundaries. This buffer area shall contain existing canopy and or understory trees with a height of eight (8) feet and a density of eight (8) trees per one hundred (100) feet or evergreen trees shall be planted to the required density where such do not exist.
10. A security gate shall be located and shown on the applicant's site plan and remain locked all times when the site is not attended.
11. Portable restrooms shall be maintained on site for the duration of the operation.
12. ~~One sign no larger than five (5) square feet will be allowed on the property upon which the project is located.~~ Any existing signs shall be in accordance with Section 15 of the Zoning Ordinance; any new signs shall be in accordance with Article 10 of the Pender County Unified Development Ordinance (UDO)
13. The project shall not result in any visible sedimentation beyond the project boundary.
14. No mining or earth disturbing activities shall take place outside the project boundary shown of this site plan.
15. The maximum depth of excavation shall not be lower than one and a half feet (1.5') above MSL. This elevation will be approximately 25.5 feet below the high point on the site that is located by surveyor elevation marker.
16. An elevation monument shall be maintained on the site for the duration of the permit.
17. The four (4) project boundary corners shown on the site plan shall be marked with posts eight (8) feet in length protruding five (5) feet above ground level with a diameter of no less than 3.5 inches. Additionally, boundary markers shall be placed in the project boundary line and space every 300 feet. The property boundaries shall be place prior to commencing project activities.
18. A final stabilization/reclamation plan shall be submitted to the Planning Department as approved by the NC Cooperative Extension Services or SCS within 90 days of issuance of the zoning permit. The site seeding and stabilization shall be maintained until a 98% vegetative coverage has been achieved.
19. The property must be graded, seeded, stabilized and maintained in accord with the conditions of this permit and all state and federal permits.
20. The hours of operation for this project shall be limited to 7:00 AM to 6:00 PM, Monday through Friday. Traffic other than automobiles and light trucks (pickups) will not be permitted to enter or leave the site other than during the hours of operation.
21. The applicant shall be permitted to have an office located on the site. The office must comply with the Pender County Zoning Ordinance; any new development would be subject to the requirements of the Pender County Unified Development Ordinance.

22. The term of this permit shall be valid for a period of 10 years from the date of issuance of a zoning permit, unless renewed by Pender County.
23. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect ~~until all conditions of this permit and other permits have been complied with and the Pender County Planning Department has made a final inspection of the site and provided a written confirmation that the site is in compliance~~ for the duration of this permit.
24. A separate permit must be obtained for any proposed signs in accordance with Article 10 of the Pender County Unified Development Ordinance.
25. 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.
26. With the exception of the extended renewal date and expanded mineable area, as previously described, all other conditions of 10198 R /SUP 05-11-21-15 shall remain in effect; with any further modification to the mining area (size and/or depth) or any other change to this permit will require Pender County Board of Commissioners review and approval.
27. Any new development within the "AE" or "AEFW" Special Flood Hazard Area (SFHA) will need to comply with the National Flood Insurance Rate Program (NFIP) in accordance with the Pender County Unified Development Ordinance, Article 9, Flood Damage Prevention.

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO

It would appear that no further action regarding DOT is required.

Four County Electric Company

No response.

NC DENR Division of Coastal Management

It appears that the subject parcel is located adjacent to the Public Trust Shoreline and Public Trust Area AECs. The Coastal Wetland AEC may also be present. It is unclear from the information provided whether these AECs also extend within the property boundaries and whether the proposed work would fall within or near either of these AECs. If the proposed project would fall within or would impact any of the AECs designated by the Coastal Resources Commission, a CAMA major permit would be required.

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

If the project does NOT have an approved signed wetland delineation, I would highly suggest that one be required. Wetland delineations are required as a part of the new mining application packet and will be necessary prior to them receiving their revision. The wetland delineation allows the owner to define where the 50 foot required buffer from the wetlands and avoid any potential impacts to wetlands. In addition, if the pit is being de-watered, they will need to show that the de-watering will NOT impact the wetlands. If this information known now by the applicant, it will expedite the permit and alleviate the need to modify the application which takes time and slows down the permitting process.

NC DOT Division of Highways

We have no comments.

NC DOT Transportation Planning Branch

No response.

NC Office of State Archaeology

No response.

NC Wildlife Resources Commission

No response.

Pender County Emergency Management

No response.

Pender County Environmental Health

No response.

Pender County Fire Marshall

No response.

Pender County Parks and Recreation

No response.

Pender County Public Library

No response.

Pender County Public Utilities

No Comment.

Pender County Schools

No response.

Pender County Sheriff's Department

No response.

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

Progress Energy Corporation
No response.

US Army Corps of Engineers
No response.

Wilmington Metropolitan Planning Organization
No response.

Attachment A

3.12.3 Procedures for Reviewing Applications

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

3.12.4 General Provisions Concerning Special Use Permits

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



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

Tracy E. Davis, PE, CPM
 Director

September 21, 2012

Beverly Eaves Perdue, Governor
 Dee Freeman, Secretary

Mr. Dean Lanier
 138 Old Point Road
 Hampstead, NC 28443

RE: Permit No. 71-43 / Cape Fear Sand Mine
 Pender County / Cape Fear River Basin

Dear Mr. Lanier:

Your recent request to have the above referenced mining permit modified has been approved. The modification is to increase the permitted and affected acreage to 15.149 acres as indicated on the Mine and Property Map revised September 4, 2012. The modification includes the addition of 5.659 acres to the southern permit boundary, as well as a corresponding pit expansion in that direction. A copy of the modified permit is enclosed.

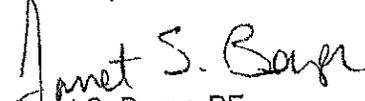
The conditions in the modified permit were based primarily upon the initial application. Modifications were made as indicated by the modification request and as required to insure compliance with The Mining Act of 1971. The expiration date, mine name and permit number shall remain the same as before the modification. I would like to draw your particular attention to the following conditions where minor additions or changes were made: Operating Condition Nos. 4E, 5, 9, and 13.

The issuance of a mining permit and/or any modification to it does not supersede local zoning regulations. The responsibility of compliance with any applicable zoning regulations lies with you.

As a reminder, your permitted acreage and affected acreage for this site are both 15.149 acres, as indicated in the application and on the Mine and Property Map revised September 4, 2012.

Please review the modified permit and contact Ashley Rodgers, Assistant Mining Specialist, at (919) 707-9220 should you have any questions concerning this matter.

Sincerely,


 Janet S. Boyer, PE
 State Mining Specialist
 Land Quality Section

JSB/ar
 Enclosures

cc: Mr. Dan Sams, PE
 Ms. Shannon Deaton - WRC, w/permit
 Mr. William Geringer-Mine and Quarry Bureau, w/o enclosures
 US Fish and Wildlife Service, w/ permit
 File

DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES
DIVISION OF LAND RESOURCES
LAND QUALITY SECTION

P E R M I T

for the operation of a mining activity.

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

Permission is hereby granted to:

Dean Lanier

Cape Fear Sand Mine

Pender County - Permit No. 71-43

for the operation of a

Sand Mine

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

MINING PERMIT EXPIRATION DATE: March 7, 2016

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

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

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

Definitions

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

Modifications

September 21, 2012: This permit has been modified to increase the permitted and affected acreage to 15.149 acres as indicated on the Mine and Property Map revised September 4, 2012. The modification includes the addition of 5.659 acres to the southern permit boundary, as well as a corresponding pit expansion in that direction.

Expiration Date

This permit shall be effective from the date of its issuance until March 7, 2016.

Conditions

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

OPERATING CONDITIONS:

1. A. Any wastewater processing or mine dewatering shall be in accordance with the permitting requirements and rules promulgated by the N.C. Environmental Management Commission.
- B. Any stormwater runoff from the affected areas at the site shall be in accordance with any applicable permit requirements and regulations promulgated by the Environmental Protection Agency and enforced by the N.C. Environmental Management Commission. It shall be the permittee's responsibility to contact the Division of Water Quality to secure any necessary stormwater permits or other approval documents.
2. A. Any mining process producing air contamination emissions shall be subject to the permitting requirements and rules promulgated by the N.C. Environmental Management Commission and enforced by the Division of Air Quality.
- B. During mining operations, water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the permitted area.
3. A. Sufficient buffer (minimum 50 foot undisturbed) shall be maintained between any affected land and any adjoining waterway or wetland to prevent sedimentation of that waterway or wetland from erosion of the affected land and to preserve the integrity of the natural watercourse or wetland.
- B. Any mining activity affecting waters of the State, waters of the U. S., or wetlands shall be in accordance with the requirements and regulations promulgated and enforced by the N. C. Environmental Management Commission.
4. A. Adequate mechanical barriers including but not limited to diversions, earthen dikes, check dams, sediment retarding structures, rip rap pits, or ditches shall be provided in the initial stages of any land disturbance and maintained to prevent sediment from discharging onto adjacent surface areas or into any lake, wetland or natural watercourse in proximity to the affected land.
- B. All drainage from the affected area around the mine excavation shall be diverted internal to said excavation or into the existing sediment pond as indicated on the Mine Plan dated September 21, 2005.
- C. Dewatering activities shall occur at this site as proposed in the permit application dated September 2005, and shall adhere to the conditions as outlined in Operating Condition No. 1.

- D. Mining activities shall occur as indicated on the Mine Plan dated September 21, 2005.
- E. Mining activities associated with the 5.659 acre addition to the southern permit boundary shall occur as indicated on the Mine and Property Map revised September 4, 2012 and the supplemental information received by the Land Quality Section on June 8, 2012 and September 6, 2012.

5. All mining permit boundaries (15.149 acres) shall be permanently marked at the site on 100-foot intervals unless the line of sight allows for larger spacing intervals.

6. The angle for graded slopes and fills shall be no greater than the angle, which can be retained by vegetative cover or other adequate erosion control measure, structure, or device. In any event, exposed slopes or any excavated channels, the erosion of which may cause off-site damage because of siltation, shall be planted or otherwise provided with ground cover, devices or structures sufficient to restrain such erosion.

7. The affected land shall be graded so as to prevent collection of pools of water that are, or likely to become, noxious or foul. Necessary structures such as drainage ditches or conduits shall be constructed or installed when required to prevent such conditions.

8. Existing vegetation or vegetated earthen berms shall be maintained between the mine and public thoroughfares whenever practical to screen the operation from the public.

9. Sufficient buffer (minimum 25 foot unexcavated) shall be maintained between any excavation and any mining permit boundary to protect adjacent property.

10. A. No on-site disposal of refuse or other solid waste that is generated outside of the mining permit area shall be allowed within the boundaries of the mining permit area unless authorization to conduct said disposal has first been obtained from both the Division of Waste Management and the Land Quality Section, Department of Environment and Natural Resources. The method of disposal shall be consistent with the approved reclamation plan.

B. Mining refuse as defined by G.S. 74-49 (14) of The Mining Act of 1971 generated on-site and directly associated with the mining activity may be disposed of in a designated refuse area. All other waste products must be disposed of in a disposal facility approved by the Division of Waste Management. No petroleum products, acids, solvents or their storage containers or any other material that may be considered hazardous shall be disposed of within the permitted area.

C. For the purposes of this permit, the Division of Land Resources considers the following materials to be "mining refuse" (in addition to those specifically listed under G.S. 74-49 (14) of the N.C. Mining Act of 1971):

1. on-site generated land clearing debris
2. conveyor belts
3. wire cables
4. v-belts
5. steel reinforced air hoses
6. drill steel

D. If mining refuse is to be permanently disposed within the mining permit boundary, the following information must be provided to and approved by the Division of Land Resources prior to commencement of such disposal:

1. the approximate boundaries and size of the refuse disposal area;
2. a list of refuse items to be disposed;
3. verification that a minimum of 4 feet of cover will be provided over the refuse;
4. verification that the refuse will be disposed at least 4 feet above the seasonally high water table; and,
5. verification that a permanent vegetative groundcover will be established.

11. An Annual Reclamation Report shall be submitted on a form supplied by the Department by February 1 of each year until reclamation is completed and approved.

12. The operator shall notify the Department in writing of the desire to delete, modify or otherwise change any part of the mining, reclamation, or erosion/sediment control plan contained in the approved application for a mining permit or any approved revision to it. Approval to implement such changes must be obtained from the Department prior to on-site implementation of the revisions.

13. The security, which was posted pursuant to N.C.G.S. 74-54 in the form of a \$16,800.00 irrevocable standby letter of credit, is sufficient to cover the operation as indicated in the approved application. This security must remain in force for this permit to be valid. The total affected land shall not exceed the bonded acreage.

14. A. Authorized representatives of the Division of Archives and History shall be granted access to the site to determine the presence of significant archaeological resources.

B. Pursuant to N. C. G. S. 70 Article 3, "The Unmarked Human Burial and Human Skeletal Remains Protection Act," should the operator or any person in his employ encounter human skeletal remains, immediate notification shall be provided to the county medical examiner and the chief archaeologist, North Carolina Division of Archives and History.

APPROVED RECLAMATION PLAN

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

The approved plan provides:

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

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

RECLAMATION CONDITIONS:

1. Provided further, and subject to the Reclamation schedule, the planned reclamation shall be to restore the mine excavation to a lake area and to grade and revegetate the adjacent disturbed areas.
2. The specifications for surface gradient restoration to a surface suitable for the planned future use are as follows:
 - A. The lake area shall be excavated to maintain a minimum water depth of four feet measured from the low water table elevation.

- B. The side slopes to the lake excavation shall be graded to a 3 horizontal to 1 vertical or flatter to the water line and 2 horizontal to 1 vertical or flatter below the water line.
- C. Any areas used for wastepiles, screening, stockpiling or other processing shall be leveled and smoothed.
- D. No contaminants shall be permanently disposed of at the mine site. On-site disposal of waste shall be in accordance with Operating Condition Nos. 10A through 10D.
- E. The affected land shall be graded to prevent the collection of noxious or foul water.

3. Revegetation Plan:

After site preparation, all disturbed land areas shall be revegetated as per the Seeding Mixture Report prepared by Mr. Matthew Martin, Extension Area Specialized Agent for the NC Cooperative Extension Service, dated September 7, 2005 with the addition of the following:

Soil Amendments

Lime: 2000 lbs/acre or follow recommendations from a soil test.

Fertilizer: 1000 lbs/acre 8-8-8 or 10-10-10, or follow recommendations from a soil test.

Mulch: All seeded areas shall be mulched using small grain straw at a rate of 2000 lbs/acre and anchored appropriately.

Whenever possible, disturbed areas should be vegetated with native warm season grasses such as switch grass, Indian grass, bluestem and gamma grass.

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

4. Reclamation Plan:

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

This permit, issued March 7, 2006, is hereby modified this 21st day of September 2012 pursuant to G.S. 74-52.

By: Janet S. Boyer

Tracy E. Davis, Director
Division of Energy, Mineral, and Land Resources
By Authority of the Secretary
Of the Department of Environment and Natural Resources

**NOTICE OF ISSUANCE OF
MINING PERMIT**

You have previously expressed an interest and/or are listed as an adjoining landowner in the application to modify this mining permit filed by Dean Lanier to conduct mining activities off SR 1411 (Old River Road) in Pender County. The mining permit (no. 71-43) was modified on September 21, 2012.

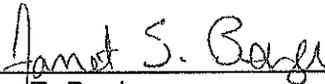
North Carolina law allows persons aggrieved by the issuance of a mining permit to contest the decision by filing a petition for a contested case in the Office of Administrative Hearings pursuant to N.C.G.S. 150B-23 of the Administrative Procedure Act (APA).

If you believe that you are an aggrieved party within the meaning of the APA and NC General Statute 74-61, a petition for a contested case must be filed in the Office of Administrative Hearings within thirty (30) days of the mailing of this notice to you.

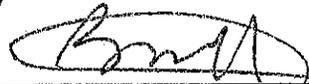
If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statutes 150B-23. File the original petition and one copy with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714.

Any questions about filing a petition may be directed to the Clerk of the Office of Administrative Hearings by telephoning (919) 431-3000.

You must serve the **Department of Environment and Natural Resources** by mailing a copy of the petition to Mr. William Cary, Registered Agent and General Counsel, Department of Environment and Natural Resources, 1601 Mail Service Center, Raleigh, NC 27699-1601.


for Tracy E. Davis
Director
Division of Energy, Mineral, and Land Resources
North Carolina Department of Environment and
Natural Resources

This notice was mailed on 9/25/12


Brenda Harris
Mining Program Secretary



North Carolina Department of Environment and Natural Resources

Division of Water Quality
Charles Wakild, P.E.
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

March 6, 2012

Mr. Dean Lanier
9265 Old River Rd.
Burgaw, NC 28425

Subject: General Permit No. NCG020000
Cape Fear Sand Mine
COC NCG020815
Pender County

Dear Mr. Lanier:

In accordance with your application for a discharge permit received on February 21, 2012, we are forwarding herewith the subject certificate of coverage to discharge under the subject state NPDES general permit. This permit is issued pursuant to the requirements of North Carolina General Statute 143-215.1 and the Memorandum of Agreement between North Carolina and the US Environmental Protection Agency dated October 15, 2007 (or as subsequently amended).

Please take notice that this certificate of coverage is not transferable except after notice to the Division of Water Quality. The Division of Water Quality may require modification or revocation and reissuance of the certificate of coverage.

Please be aware that mine dewatering at your site has the potential to impact adjacent wetlands. The specific requirements for mine dewatering at facilities near wetlands can be found in Part III, Section E of your permit. **You must have an approved Operation and Monitoring Plan before mine dewatering discharges occur at your facility.** Discharging mine dewatering wastewater without Plan approval will be subject to enforcement action. An Operation and Monitoring Plan for your facility must be submitted to the Wilmington Regional Office within 60 days of your receipt of this permit. Contact **Linda Willis** at the **Wilmington Regional Office** at (910) 796-7215 for more information about the approval process.

Please note that **mine dewatering wastewater includes** wet pit overflows caused solely by direct rainfall and groundwater seepage for this type of mining operation. Any discharge of this water (and any stormwater commingled with it) is subject to the effluent limitations in this permit.

This general permit allows the discharge of stormwater and certain types of wastewater from your facility. In your application, you specified that only mine dewatering water would be discharged from this facility. If separate point-source discharges of stormwater occur (i.e., stormwater *not* combined with mine dewatering water), you will be required to adhere to the conditions in this permit for stormwater discharges.

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY

GENERAL PERMIT NO. NCG020000
CERTIFICATE OF COVERAGE No. NCG020815

STORMWATER AND MINE DEWATERING DISCHARGES

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provision of North Carolina General Statute 143-215.1, other lawful standards and regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

Dean Lanier

is hereby authorized to discharge stormwater and mine dewatering wastewater from a facility located at

Cape Fear Sand Mine
9265 Old River Road
Burgaw
Pender County

to receiving waters designated as an UT to Pike Creek, a class C; Sw water in the Cape Fear River Basin, in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, III, IV, V, and VI of General Permit No. NCG020000 as attached.

This certificate of coverage shall become effective March 6, 2012.

This Certificate of Coverage shall remain in effect for the duration of the General Permit.

Signed this the 6th day of March, 2012.



for Charles Wakild, P.E., Director
Division of Water Quality
By the Authority of the Environmental Management Commission