



REQUEST FOR BOARD ACTION

ITEM NO. 16

DATE OF MEETING: September 28, 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 Mineable Area.

BACKGROUND: Janet Whitehead, applicant and owner, is requesting approval of a major revision to an existing Special Use Permit (SUP 02-02-18-01/10421) originally issued for the construction and operation of a Sand Borrow Pit Mine (NACIS 2323) on February 18, 2002 for \pm 30 acres and subsequently renewed on March 19, 2012 (SUP 10421R). The requested revision is to allow for an additional \pm 13.7 acres of mineable area. The property is zoned RA, Rural Agricultural zoning district and according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; nonmetallic mineral mining and quarrying (NAICS 2123) is permitted via Special Use Permit. There is one (1) tract associated with this request and is located at 4234 Shaw Highway (SR 1520), Rocky Point. The subject property may be further identified by Pender County PIN 3257-88-8047-0000.

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 September 28, 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 ___ Keith ___

J. David Williams, Chairman 9/28/2015
Date

ATTEST 9/28/2015
DATE

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: September 28, 2015

Applicant: Janet G. Whitehead

Property Owner: Janet G. Whitehead

Case Number: 10421 R2 (SUP 02-02-18-01)

Land Use Proposed: Janet Whitehead, applicant and owner, is requesting approval of a major revision to an existing Special Use Permit (SUP 02-02-18-01/10421) originally issued for the construction and operation of a Sand Borrow Pit Mine (NACIS 2323) on February 18, 2002 for \pm 30 acres and subsequently renewed on March 19, 2012 (SUP 10421R). The requested revision is to allow for an additional \pm 13.7 acres of mineable area with a total minable area of \pm 43.7 acres.

Property Record Number and Location: There is one (1) tract associated with this request and is located at 4234 Shaw Highway (SR 1520), Rocky Point. The subject property may be further identified by Pender County PIN 3257-88-8047-0000.

Zoning District of Property: The property is zoned RA, Rural Agricultural zoning district and according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; nonmetallic mineral mining and quarrying (NAICS 2123) is permitted via Special Use Permit.

PROJECT HISTORY:

On February 18, 2002 a Special Use Permit was unanimously approved by the Pender County Board of Commissioners for the construction and operation of a \pm 30 acre Sand Borrow Pit Mine (NAICS 2323), to be located at 4324 Shaw Highway (SR 1520), Rocky Point (Attachment 1). The applicant did not complete mining the entire permitted area and the original Special Use Permit expired, requiring renewal in 2012. The 2002 SUP approval was valid for ten (10) years.

On March 19, 2012, a Special Use Permit (10421 R) was modified and unanimously approved by the Board of Commissioners to allow for another twenty (20) years term for the original SUP, but to not expand the project acreage (Attachment 2).

PROJECT DESCRIPTION:

Janet Whitehead, applicant and owner, is requesting approval of a major revision to an existing Special Use Permit (SUP 02-02-18-01/10421) originally issued for the construction and operation of a Sand Borrow Pit Mine (NACIS 2323) on February 18, 2002 for \pm 30 acres conditioned with a ten (10) year expiration date.

The renewal of this SUP (10421R) occurred on March 19, 2012 to allow for another twenty (20) year term for the SUP and with no expansion in the mining acreage (\pm 30.0 acres).

The current revision request is to expand the minable area an additional \pm 13.7 acres for a total of 43.7 acres on the \pm 103.77 acre parcel. This is the only requested revision to the SUP at this time.

Mining Permit

On February 13, 2002, the North Carolina Department of Environment and Natural Resource (NC DENR), Division of Land Resources issued Mining Permit Number 71-20 for this project. A maximum mining depth of twenty (20') feet is permitted. There will be no dewatering on site. The only movement of water is from pit to pit. The state mining permit was modified on November 5, 2013 to accommodate the Phase III changes to include ±34.9 acres of minable area (Attachment 3). According to the applicant, the permit has been revised to account for changes in mineable area. The attached site plan shows ±43.7 acres of mineable area, but the state permit is only valid for ±4.9 additional acres at this time.

The current state mining permit expires on November 5, 2023. Any modifications, expansions, or revisions must be done so in accordance with approval of the North Carolina Department of Environment and Natural Resource (NC DENR), Division of Land Resources and is required prior to final zoning.

Environmental Concerns

Portions of the subject property are located within the "AE" and ".02 Percent Annual Flood Chance" Special Flood Hazard Area (Shaded X), according to the February 16, 2007 FEMA Flood Insurance Rate Maps (FIRMs), Map Numbers 3720325700J and 3270326600J, Panel Numbers 3257 and 3266. The minable area appears to be located inside of the SFHA. Any new development and excavation will need to comply with the National Flood Insurance Rate Program (NFIP) in accordance with the Pender County Flood Damage Prevention Ordinance.

Site Access

The site is accessed via a private access easement to Shaw Highway (SR 1520). Any revisions to existing NCDOT driveway permits will be done so during the Major Site Development Plan review and are subject to review and approval by NCDOT. At this time no additional site access points have been proposed.

Landscape and Buffers

All landscape and buffers are to be approved in accordance with Section 8.2.8, Project Boundary Buffer of the Pender County Unified Development Ordinance. The vast majority of the existing site is covered with existing vegetation which may be sufficient for buffering, however all buffers will be examined at Site Development Plan submittal.

All commercial or uses other than residential uses (excluding industrial uses) in the Residential Districts shall provide a Buffer A along all street boundaries. A Buffer C is required along all boundaries adjacent to single family residential uses or residential lots with a parcel size of less than one (1) acre and when a single family structure is within fifty (50) feet of the boundary of the development. A Buffer B is required along all other non-street boundaries (Attachment 4).

Utilities

There are no restroom facilities proposed at this time on the subject parcel. However, any such changes will be reviewed by the Technical Review Committee during Site Development Plan submittal. All approvals for private septic are per the Pender County Environmental Health Department. Water approval if required shall be in coordination with Pender County Utilities.

Hours of Operation

According to the applicant's narrative; the current hours of operation will be Monday through Friday from 8 AM until 5 PM. The applicant does not wish to revise the hours at this time. Some instances may require extra hauling hours on Saturday this will be kept to a minimum.

There are two (2) employees who operate mining facilities on site coordinating with contractors for material pick up.

Prior to the issuance of final zoning approval, a Major Site Development Plan must be submitted and approved in accordance with applicable provisions of the Pender County Unified Development Ordinance. All other applicable Federal, State and local permits must be obtained for the project.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
MISCELLANEOUS USES											
Nonmetallic Mineral Mining and Quarrying	2123	S								S	

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 Nonmetallic Mineral Mining and Quarrying (NAICS Industry Code 2123) is permitted in the RA via Special Use Permit. Additionally, the mining facility has been in operation since February of 2002.
- 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.
- 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.
- The SUP revision conflicts with one goal and policy within the *2010 Comprehensive Land Use Plan*:
- **Policy 6A.1.2** – Consider regulations that restrict or limit development in flood hazard areas, wetlands, and other identified hazardous or natural resource areas.
- 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 vacant mostly wooded parcels. To the west is one (1) single family residential home, with the closest residential structure ± 730 feet from the proposed minable area. Agricultural uses are found to the southwest and southwest of the property.
- F. Site Access Conditions:** The property has direct access to Shaw Highway (SR 1520) via an existing haul road on the subject property. The existing driveway permit shall be re-examined and approved by NCDOT prior to the Major Site Development Plan approval.
- G. Conditions To Consider In Issuing the Special Use Permit For This Project:**
1. The applicant shall submit to the Planning Department an Approved Mining Permit from NCDENR - Division of Energy, Mineral, and Land Resources - Land Quality Section prior to Final Zoning Permit issuance. No project activity shall commence on the site including clearing and grading until a Final Zoning Permit has been issued.
 2. 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 Shaw Highway (SR 1520) for the duration of the project. Signs should meet all NCDOT sign and ROW encroachment standards.

3. No mining or earth disturbing activities shall take place outside the project boundary shown on the approved site plan.
4. 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)
5. The project shall not result in any visible sedimentation beyond the project boundary.
6. No mining or earth disturbing activities shall take place outside the project boundary shown of this site plan.
7. An elevation monument shall be maintained on the site for the duration of the permit.
8. The property must be graded, seeded, stabilized and maintained in accord with the conditions of this permit and all state and federal permits.
9. The hours of operation for this project shall be limited to 8AM to 5PM, Monday through Friday, with some operations taking place on Saturdays.
10. 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.
11. 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.
12. With the exception of the expanded mineable area, as previously described, all other conditions of 10421 R /SUP 02-01-18-01 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.
13. 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.
14. All other applicable local, state, and federal permits as required.

Attachment A

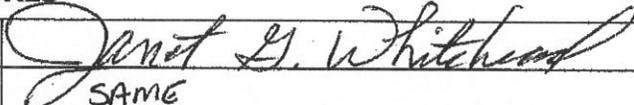
3.12.3 Procedures for Reviewing Applications

- 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.	10421 R2	Date	8-6-15
Application Fee	750.00	Receipt No.	152109
Pre-Application Conference	8-6-15	Hearing Date	9-28-15
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	JANET Whitehead	Owner's Name:	SAME
Applicant's Address:	3421 Hwy 210W	Owner's Address:	↓
City, State, & Zip	Hampstead NC 28443	City, State, & Zip	
Phone Number:	910-270-4614	Phone Number:	
Legal relationship of applicant to land owner:			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3257-88-8047-0000	Total property acreage:	103 AC
Zoning Classification:	RA - Rural Agricultural	Acreage to be disturbed:	34.9
Project Address :	4324 Shawhwy - Rocky Point, NC	NAICS Code:	2123
Description of Project Location:	100 ft. north of Red Hawk Ln., on right		
Describe activities to be undertaken on project site:	Digging fill dirt out -		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	8-4-2015
Owner's Signature	SAME	Date:	
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 1. Applicant must also submit the information described on the Special Use Checklist. 2. Applicant or agent authorized in writing must attend the public hearing. 3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing. 4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application 5. Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing. 			

Office Use Only

<input type="checkbox"/> General/ Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000 <input type="checkbox"/> Tower over 75 Feet/ Fees \$500 <input type="checkbox"/> Minor Revisions / Fees \$100 <input checked="" type="checkbox"/> Mining Fees \$750	Total Fee Calculation: \$ 750.00 Application#: 10421 R2 Date of Hearing: 9-28-15					
Attachments Included with Application: (Please include # of copies)						
CD /other digital version	<input type="checkbox"/> Y <input checked="" 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 # 9912		
Application received by:	<i>Paul O'Neil</i>				Date: 8-14-15	
Application completeness approved by:	<i>Paul O'Neil</i>				Date: 8-17-15	

Special Use Permit Checklist

<input type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<input type="checkbox"/>	Application fee \$ 750.00
<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 type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
<input checked="" type="checkbox"/>	Project Narrative --Written description of the project (max of 3 pages) including the following: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Location of the project and type of access to project site <input checked="" type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. <input checked="" type="checkbox"/> Description of all construction activities to be undertaken on the site <input checked="" type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers <input 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 <u>readable</u> scale. The scale shall be not more than 200' to the inch. The map shall display an accurate bar graph scale, date prepared, north arrow and the author of the map. This map(s) shall show the following: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Boundaries of the property upon which the special use will be located, the acreage in the property and project site, with a north arrow and bar graph. <input checked="" type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road. <input checked="" type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property. <input checked="" type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries. <input checked="" type="checkbox"/> Existing and proposed structures, other on-site improvements, and location of all activities associated with the use, location of well, septic tank, and/or other utilities. <input checked="" type="checkbox"/> Boundary of all clearing, grading, and/or land disturbing activities on the site and the calculated acreage of all land disturbing activities on the site. <input checked="" type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO) <input checked="" type="checkbox"/> Landscaping and buffering (See Article 8, Pender County UDO) <input checked="" type="checkbox"/> All signs to be located on the property (See Article 10, Pender County UDO) <input checked="" type="checkbox"/> Pedestrian walks, area lighting and flood lighting. <input checked="" type="checkbox"/> Existing natural features of the site including, wooded areas, tree lines, ponds, streams, other water bodies or ditches on or adjacent to the site, designated flood hazard areas & known or designated wetlands on the site. <input checked="" type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site. <input checked="" type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted. <input checked="" type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.
RETURN COMPLETED APPLICATION TO: Pender County Planning & Community Development P.O. Box 1519 Burgaw, NC 28425	

Project: Whitehead Sand - Janet Whitehead

location is 4324 Shaw Hwy. Rocky Point, NC.

I am wanting to renew the special use permit because we have increased acreage from 30 to 43.7 ac.. we dig fill sand with an excavator and haul out with dump trucks. the haul road is already established, usually have 2 or so workers. Open Monday- Friday, some on Saturday. Hours-8 to 5.

all boundaries have been marked, map enclosed, there will be no traffic congestion, no loud noises or hazards of any kind. Will not effect the safety or health of the community.

We do have the State permits and are good until Nov. 5, 2023. When finished mining all areas will be left to state specifications as in permit.

Everything is the same as original permit, just adding 13.7 acres. The total acres of our land is 103 acres.

Thanking you,

Janet Whitehead

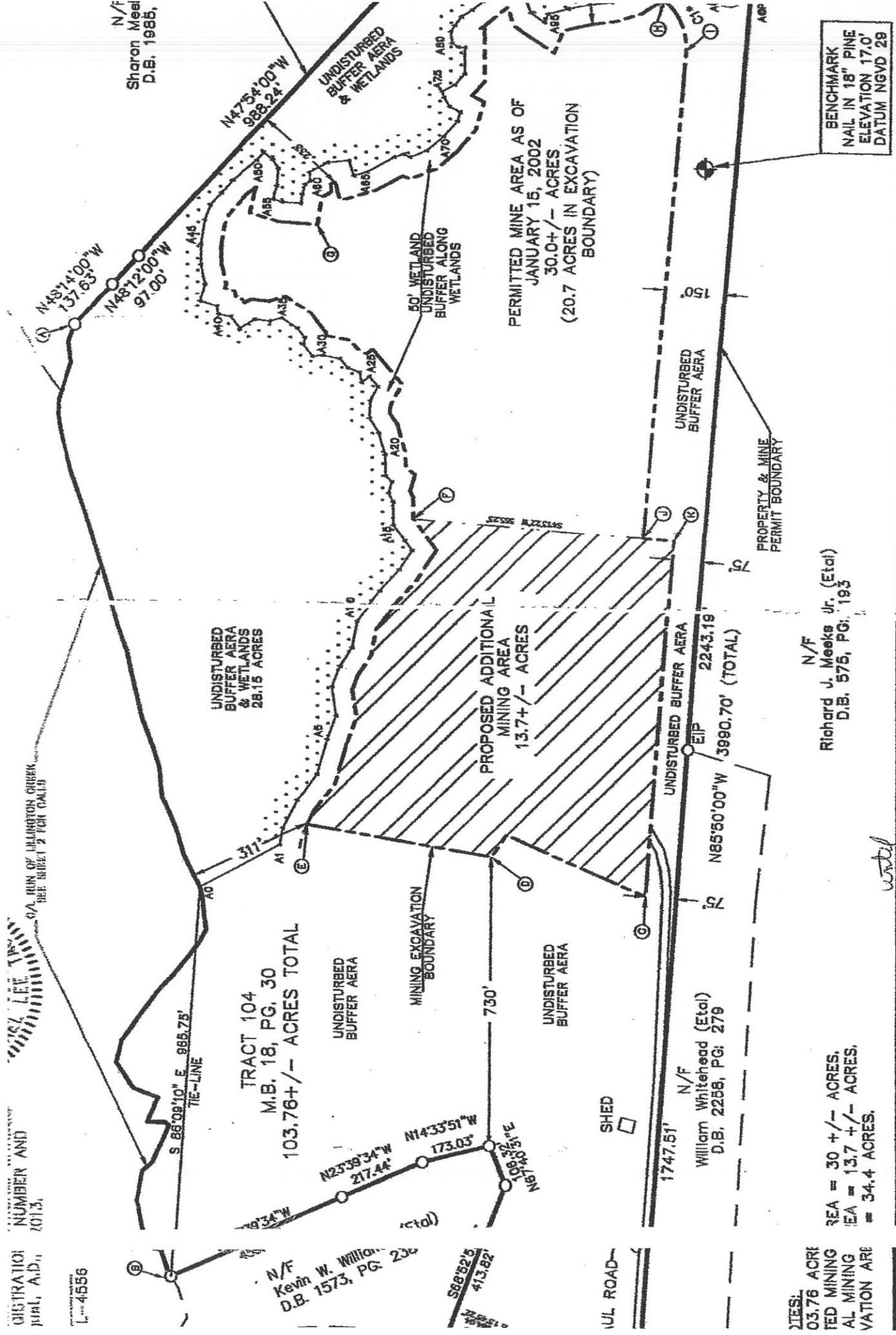
REGISTRATION NUMBER AND DATE, A.D., 2013.

SEE LEFT PAGE

VIA PLAN OF HILMINGTON GREEN, SEE SHEET 2 FOR CALLS

N/F Sharon Meel D.B. 1985,

N/F Kevin W. Williams D.B. 1573, PG. 236



BENCHMARK NAIL IN 18" PINE ELEVATION 17.0' DATUM NGVD 29

N/F Richard J. Meeks Jr. (Etal) D.B. 575, PG. 193

N/F William Whitehead (Etal) D.B. 2288, PG. 279

TIES: 03.76 ACRE PERMITTED MINING AREA 13.7 +/- ACRES. MINING EXCAVATION AREA 34.4 ACRES.

REVISED PROJECT MAP OF MINING OPERATION AND WETLANDS FOR

11-5-20 23 # 71-20

ELLIOTT TACKETT REGIONAL LAND SURVEYOR

10421

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

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

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

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

HISTORY/BACKGROUND:

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

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

EVALUATION:

- A) Public Notifications:** Advertisements for the proposal have been placed in the Topsail Voice and Pender Post. Adjacent property owners were notified by first class mail. Special Use Permit signs were posted on or near the proposed site.
- B) Zoning Ordinance Compliance:** This property is zoned RA. Borrow pit mining is permitted in the RA district as a Special Use. This project is not inconsistent with the Zoning Ordinance.
- C) Land Use Plan Compliance:** This property is classified as Rural. The Rural classification is a class that would be suitable for a borrow mine pit. Therefore this project is not inconsistent with the Land Use Plan.
- D) 20/20 Growth Management Plan:** This project is not inconsistent with the 20/20 Growth Management Plan.
- E) Existing Land Use In Area:** The majority of the project site is surrounded by vacant land. There is one Residence located on Shaw Hwy at the western end of the property. The house is at least 0.25 mile from any mining activities.
- G) Site Access Conditions:** The project site will be accessed from Shaw Highway via an unpaved 50' haul road that will run along the southern property line to the proposed pit. The property has access to a state maintained road.
- H) Conditions To Consider In Issuing A Special Use Permit For This Project**
 1. The applicant shall submit to the Planning Department a copy of the approved plans and permits from North Carolina Land Quality for Sediment and Erosion Control and/or Mining, prior to the issuance of a zoning permit.
 2. The project access-entrance at Shaw Highway shall be constructed, stabilized and maintained with a road base of aggregate base course as required by NCDOT for secondary roads for a distance of 50' beyond the edge of pavement.

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

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

CASE NO: 02-02-18-01

PROP. REC. NO: 39758

APPLICANT: Janet Whitehead

OWNER: Janet & Billy Whitehead

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

PROPOSED USE OF PROPERTY: Borrow Pit Mining

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

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

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

THIS 26th DAY OF March 2002.

Martin V. Dean
MARTIN BEACH, CLERK TO THE BOARD

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

Johnny Sutton
Print Official's Name

Johnny Sutton
Signature Plan. Dir. Or Designated Official

3-28-02
Date

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

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

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

JANET WHITEHEAD
Print Applicant Name

JANET WHITEHEAD
Applicant Signature

4-1-02
Date

JANET WHITEHEAD
Print Owner Name

JANET WHITEHEAD
Owner Signature

4-1-02
Date

Billy Whitehead
Print Owner Name

Billy Whitehead
Owner Signature

4-1-02
Date

**DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES**

DIVISION OF LAND RESOURCES

LAND QUALITY SECTION

P E R M I T

for the operation of a mining activity

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

Permission is hereby granted to:

Janet G. Whitehead

Shaw Pit

Pender County - Permit No. 69-35

for the operation of a

Sand Mine

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

MINING PERMIT EXPIRATION DATE: February 13, 2012



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

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

February 13, 2002

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

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

RE: Shaw Pit
Pender County
Cape Fear River Basin

Dear Ms. Whitehead:

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

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

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

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

Sincerely,

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

TED/ch
Enclosures

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

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

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

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

Definitions

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

Modifications

Expiration Date

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

Conditions

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

OPERATING CONDITIONS:

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

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

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

APPROVED RECLAMATION PLAN

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

The approved plan provides:

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

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

RECLAMATION CONDITIONS:

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

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

3. Revegetation Plan:

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

Permanent Seeding Specifications

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

Soil Amendments

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

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

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

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

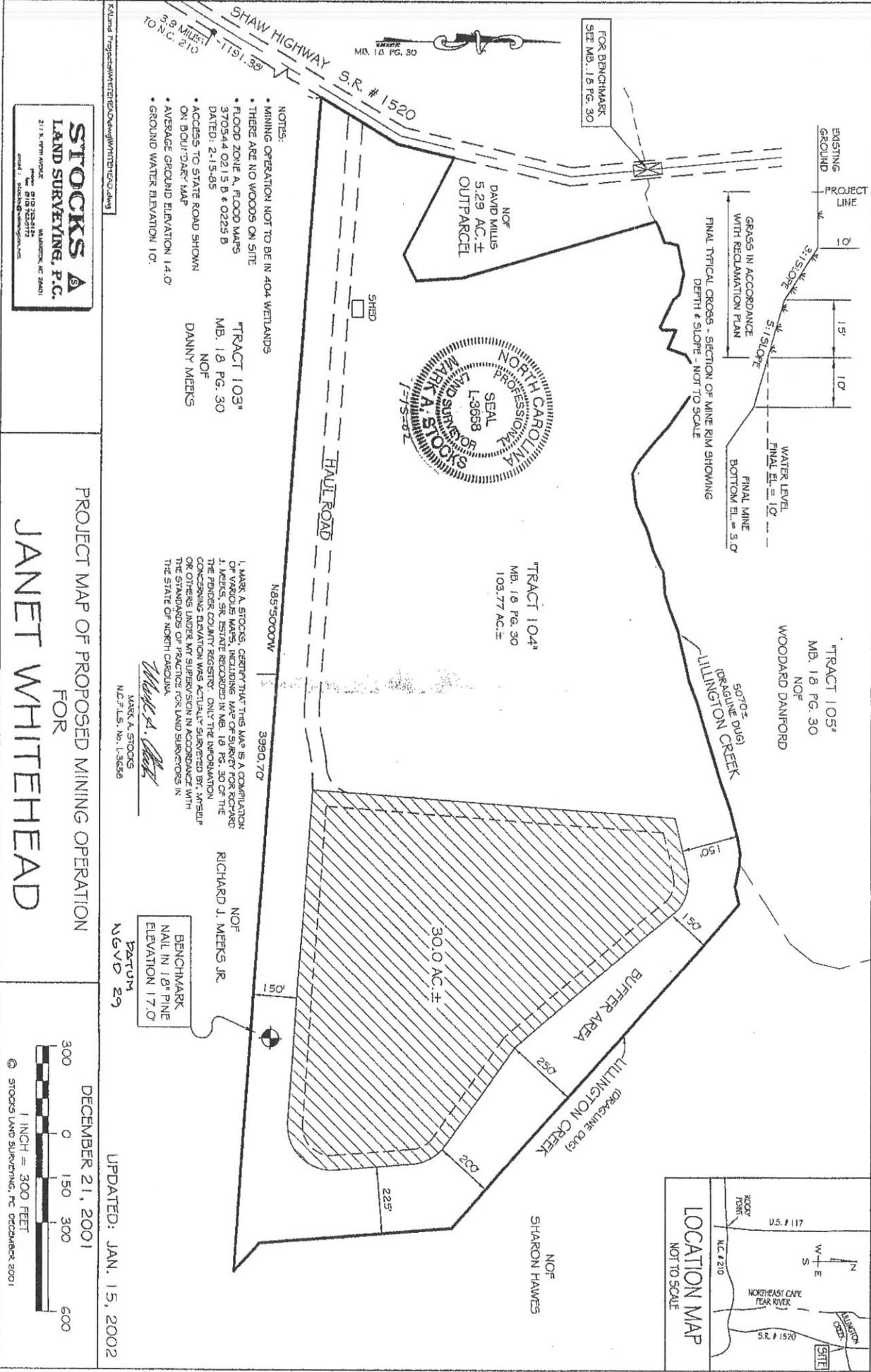
4. Reclamation Plan:

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

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

By: _____

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



- NOTES:
- MINING OPERATION NOT TO BE IN 404 WETLANDS
 - THERE ARE NO WOODS ON SITE
 - FLOOD ZONE A, FLOOD MAPS 3705-4 02 15 B & 0225 B DATED: 2-15-85
 - ACCESS TO STATE ROAD SHOWN ON BOUNDARY MAP
 - AVERAGE GROUND ELEVATION 14.0'
 - GROUND WATER ELEVATION 10.0'

TRACT 103⁴
 MB. 18 PG. 30
 NOF
 DANNY MEERS

TRACT 104⁴
 MB. 18 PG. 30
 103.77 AC. ±

TRACT 105⁴
 MB. 18 PG. 30
 NOF
 WOODARD DANFORD

NOF
 RICHARD J. MEERS JR.

BENCHMARK
 NAIL IN 1 1/2" PINE
 ELEVATION 17.0'

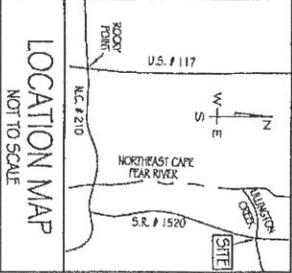
NOF
 SHARON HAWES

STOCKS & A
LAND SURVEYING, P.C.
 211 N. 7TH AVENUE
 WASHINGTON, NC 28040
 Phone: 810.725.2124
 Fax: 810.725.2124
 e-mail: stocks@stocksnc.com

PROJECT MAP OF PROPOSED MINING OPERATION
 FOR
JANET WHITEHEAD

DECEMBER 21, 2001
 1 INCH = 300 FEET
 © STOCKS LAND SURVEYING, PC DECEMBER 2001

UPDATED: JAN. 15, 2002



KLAND Project\WHITEHEAD\mg\WHITEHEAD.dwg

**Pender County
Planning and Community Development**

Planning Division

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



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

March 9, 2012

Janet and William Whitehead
3421 NC Highway 210 West
Hampstead, NC 28443

RE: Case # 10421 (R) Special Use Permit for a Sand Barrow Pit Mine

Dear Mr. & Mr. Whitehead,

The Pender County Board of Commissioners voted unanimously at their March 19, 2012 meeting to approve your Special Use Permit request for a **Major Revision** to an existing Special Use Permit (SUP) for the Operation of a Sand Borrow Pit Mine, conditioned with a ten (10) year expiration date. The requested revision will modify the aforementioned condition to allow for another twenty (20) year term for the SUP.

The project at 4324 Shaw Highway in Burgaw and may be identified as PIN: at 4324 Shaw Highway.

Please find the enclosed signed resolution of your approved Special Use Permit request. Please note that you will need to submit a Site Development Application along with the approved Mining Permit issued by North Carolina Department of Environment and Natural Resource (NC DENR), Division of Land Resources to receive final zoning approval. If you have any questions please contact me at the information provided herein.

Sincerely,

A handwritten signature in black ink that reads "Ashley Frank". The signature is written in a cursive, flowing style.

Ashley Frank, Planner II
910-259-1274
afrank@pendercountync.gov

Enclosures: Signed Resolution



REQUEST FOR BOARD ACTION

ITEM NO. 16.

DATE OF MEETING: March 19, 2012

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

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

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

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

RESOLUTION

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on March 19, 2012 the Pender County Board of Commissioners (approved, ~~modified, denied~~) resolution requesting approval of a major revision to an existing special use permit (SUP) for the operation of a sand borrow pit mine. The revision is to amend an existing condition extending the term of the permit, as described herein, and the Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS: To include the attached list of NC DENR requirements, items 2-8.

MOVED Rivenbark SECONDED Williams

APPROVED X DENIED _____ UNANIMOUS

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

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

[Signature]
ATTEST 03/19/2012
Date

**DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES
DIVISION OF ENERGY, MINERAL AND LAND RESOURCES
LAND QUALITY SECTION**

P E R M I T

for the operation of a mining activity

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

Permission is hereby granted to:

.Janet G. Whitehead

Shaw Pit

Pender County - Permit No. 71-20

for the operation of a

Sand Mine

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

MINING PERMIT EXPIRATION DATE: November 5, 2023

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

November 5, 2013: This permit has been modified to increase the affected acreage at this site to 34.9 acres as indicated on the mine map last revised August 21, 2013. This modification includes expansion of the mine excavation area to the west.

Expiration Date

This permit shall be effective from the date of its issuance until November 5, 2023.

Conditions

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

OPERATING CONDITIONS:

1.
 - A. Any wastewater processing or mine dewatering shall be in accordance with the permitting requirements and rules promulgated by the N.C. Environmental Management Commission.
 - B. Any stormwater runoff from the affected areas at the site shall be in accordance with any applicable permit requirements and regulations promulgated by the Environmental Protection Agency and enforced by the N.C. Environmental Management Commission. It shall be the permittee's responsibility to contact the Stormwater Program 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, sediment 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.
 - C. No dewatering activities shall occur at this site.
 - D. Mining activities shall occur as indicated on the mine map last revised August 21, 2013 and the supplemental information received by the Land Quality Section on January 23, 2012, February 1, 2013, May 11, May 22, 2012, and May 2, 2013.
5. All affected area boundaries (34.9 acres) shall be permanently marked at the site on 100-foot intervals unless the line of sight allows for larger spacing intervals.

- 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 Energy, Mineral and 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 \$21,700.00 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 D.
- E. The affected land shall be graded to prevent the collection of noxious or foul water.
3. Revegetation Plan:

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

Permanent Seeding Specifications

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

Soil Amendments

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

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 February 13, 2002, is hereby simultaneously renewed and modified this 5th day of November, 2013 pursuant to GS 74-52.

By: Harold S. Benge


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

8.2.4 Prohibited Use of Buffer Area

A buffer area shall not be used for any building or use, accessory building or use, parking or loading area, storage area, or other principal or accessory uses except as specifically permitted in this Ordinance.

8.2.5 Planting in Easements

- A. Where required plantings are located in easements, the property owner shall be responsible for replacement of such required vegetation if maintenance or other utility requirements require their removal.
- B. No trees shall be planted in wet retention ponds, drainage maintenance easement, or any utility maintenance easements.
- C. Shrubs may be planted within easements, provided they are only within the outer three feet of the easement. No new trees may be planted in an easement.
- D. Existing trees may remain in dry retention ponds provided that the natural grade is undisturbed to the tree line, they are a species adapted to seasonal flooding and the pond is adequately maintained.

8.2.6 Buffer Descriptions and Options

The following descriptions list the specifications of each buffer. The requirements reflect the minimum and the developer may increase the buffer at his/her option. Buffer requirements are stated in terms of width of the buffer and the number of plant units required per one hundred (100) linear feet of buffer. The requirements of a buffer may be satisfied by any of the options under each letter designation or existing equivalent vegetation. All mathematical rounding shall be upward and shall be applied to the total amount of plant material required in the buffer, not to each one hundred (100) foot length. The required canopy and understory trees shall generally be spread uniformly along the buffer. Shrubs may be clustered when a 98% grass cover is provided in all areas of the buffer other than within 4 ft. of the base of any tree or shrub.

Buffer A

Buffer "A" This buffer is designed primarily for road frontage areas and should run parallel to the street to provide a continuous, aesthetically pleasing streetscape. The requirements for buffer "A" shall be met by any one of the following:

A-1) 15 foot wide strip with 3 canopy trees, 2 understory trees and a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree), per 100 linear feet (width may be reduced to 10' for existing developed lots that are subject to new buffer requirements), or

A-2) 20 foot wide strip with 3 canopy trees, 2 understory trees and either a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree or shrub) or 18 shrubs per 100 linear feet, or

A-3) 25 foot wide strip with 1 canopy tree, 2 understory trees and either a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree or shrub) or 21 shrubs per 100 linear feet, or

A-4) 30 foot wide strip with 1 canopy tree, 2 understory trees and either a grass or other approved vegetative ground cover of at least 98 % coverage (except within 4 feet of the base of any tree or shrub) or 32 shrubs per 100 linear feet.

Buffer B

Buffer "B" This buffer is a medium density planting area to be used primarily along non street boundary lines to provide spatial separation between similar types of uses. The requirements for buffer "B" shall be met by any one of the following:

B-1) 10 foot wide strip with 3 canopy trees, 4 understory trees and a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree), per 100 linear feet, or

B-2) 15 foot wide strip with 3 canopy tree, 2 understory trees and a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree), per 100 linear feet, or

B-3) 20 foot wide strip with 1 canopy tree, 2 understory tree and either a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree or shrub) or 15 shrubs per 100 linear feet, or

B-4) 25 foot wide strip with 0 canopy trees, 5 understory trees and either a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree or shrub) or 21 shrubs per 100 linear feet.

Buffer C

Buffer "C" This buffer is designed to provide a high density screen primarily along non street boundary lines to provide buffer and separation between different categories of uses such as commercial adjacent to residential uses or other non-residential uses adjacent to high density single family residential uses. The requirements for buffer "C" shall be met by any one of the following:

C-1) 10 foot wide strip with a 6 foot high wood stockade, basket weave, or other solid wood fence and 2 canopy trees and a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree), per 100 linear feet, or

C-2) 15 foot wide strip with a 6 foot high wood stockade, basket weave, or other solid wood fence or an evergreen hedge* that will provide a continuous screen at least 6' high within 4 years and 1 canopy tree, 4 understory trees and a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree), per 100 linear feet, or

*Reference spacing requirements in plant list for specific species and spacing to achieve evergreen hedge

C-3) 20 foot wide strip with an evergreen hedge that will provide a continuous screen at least 6' high within 4 years and 1 canopy tree or 3 understory trees and a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree), per 100 linear feet, or

C-4) 25 foot wide strip with an evergreen hedge that will provide a continuous screen at least 6' high within 4 years, 2 understory trees and a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree), per 100 linear feet.

Buffer D

Buffer "D" This buffer is a low density planting area to be used along boundary lines in rural areas between large lots or tracts with substantial buffer width and setbacks to provide spatial separation between uses that are developed at very low density. The requirements for buffer "D" shall be met by any one of the following:

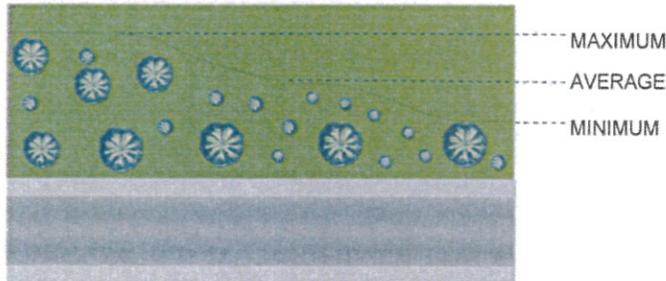
D-1) 15 foot wide strip with 3 canopy trees and a grass or other approved vegetative ground cover of at least 98 % coverage (except within 4 feet of the base of any tree) per 100 linear feet, or

D-2) 20 foot wide strip with 2 canopy trees, 2 understory trees and a grass or other approved vegetative ground cover of at least 98 % coverage (except within 4 feet of the base of any tree) per 100 linear feet, or

D-3) 25 foot wide strip with 1 canopy tree, 3 understory trees and a grass or other approved vegetative ground cover of at least 98 % coverage (except within 4 feet of the base of any tree) per 100 linear feet.

8.2.7 Buffer Depth Averaging

While the buffer depth is normally calculated as parallel to the property line, design variations are allowed and are calculated on the average depth of the buffer per 100 feet of linear width measured along the property line. Minimum depth of buffer in any case shall not be less than 50% the required depth of the buffer chosen. Maximum depth shall not be more than 150% the required depth of the buffer chosen.



8.2.8 Project Boundary Buffer

The following are the buffering requirements of listed permitted uses in each district and certain special types of development. Special uses may be required to meet additional buffer requirements, but shall in all cases be required to have at a minimum the same buffer as permitted uses. Existing vegetation that meets or exceeds the requirements of the specific buffer is desired and allowed instead of any required new plantings.

Buffers Required for Mobile Home Parks - Mobile home parks shall be required to have the following buffers:	
Location of Buffer for Mobile Home Parks	Type Buffer
Along all boundaries adjacent to a street	Buffer A
Along all boundaries adjacent to single family residential uses or residential lots with a parcel size of less than 1 acre and when a single family structure is within 50' of the boundary of the park	Buffer C
Along all other boundaries	Buffer B

Buffers Required for Multifamily and Planned Developments - Multifamily and Planned Developments shall be required to have the following buffers:	
Location of Buffer for Multi-family & Planned Developments	Type Buffer
Along all boundaries adjacent to a street	Buffer A
Along all boundaries adjacent to single family residential uses or residential lots with a parcel size of less than 1 acre and when a single family structure is within 50' of the boundary of the development	Buffer C
Along all other boundaries	Buffer B

Buffers Required for Shopping Centers - Shopping centers shall be required to have the following buffers:	
Location of Buffer for Shopping Centers	Type Buffer
Along all boundaries adjacent to a street	Buffer A
Along all boundaries adjacent to Residential Districts or uses and adjacent to single family residential uses or residential lots with a parcel size of less than 1 acre and when a single family structure is within 50' of the boundary of the development	Buffer C
Along all other boundaries	Buffer B

Buffers Required for All Non-residential Uses (Excludes Industrial Uses) in All Residential Districts, (RA, RP, RM, MH) - Residential uses in Residential Districts are not required to have buffers, except as required for mobile home parks, Multifamily and Planned Developments. All commercial or uses other than residential uses (excluding industrial uses) in the Residential Districts shall provide the following buffers: Uses in these districts that require a special use permit will in addition, provide other buffers as specified in the special use permit.

Location of Buffer for Non-residential Uses in the Residential Districts	Type Buffer
Along all street boundaries of the Development	Buffer A
Along all boundaries adjacent to single family residential uses or residential lots with a parcel size of less than 1 acre and when a single family structure is within 50' of the boundary of the development	Buffer C
Along all other non-street boundaries	Buffer B

Buffers Required for the Commercial Districts - All uses in the General Business and Office & Institutional Districts shall be required to have the following buffers:

Location of Buffer for GB and OI Districts	Type Buffer
Along all boundaries adjacent to street right-of-ways	Buffer A
Along all non-street boundaries adjacent to Residential Districts and adjacent to single family residential uses or residential lots with a parcel size of less than 1 acre and when a single family structure is within 50' of the boundary of the development	Buffer C
Along all other boundaries	Buffer B

Buffers Required For The Industrial Districts And Industrial Uses In Any Other Districts

Location of Buffer for Industrial Districts	Type Buffer
Along all street boundaries	Buffer D
Along all non-street boundaries adjacent to Residential Districts when adjacent to single family residential structures within 50' of the project boundary	Buffer C
Along all other boundaries	Buffer D

Buffers Required in the Watershed Overlays (WS-PA & WS-CA).

Type Use	Buffer Requirement Watershed Districts
Bona fide Farms	Bona fide Farms in the Watershed Critical Area District (WSCA) shall maintain a 10 foot permanently vegetated buffer adjacent to all perennial waters as shown on the most recent edition of the USGS 1:24000 (7.5 minute) topographic map. The buffer shall remain vegetated and shall be used only for access and utilities.
Silviculture Activities	Silviculture activities shall maintain buffers (Streamside Management Zones) as described in the Division of Forest Resources Rules and Best Management Practices Manual.
All activities, other than bona fide farms and silviculture activities	All activities, other than bona fide farms and silviculture activities shall maintain a 30 foot vegetated buffer adjacent to all perennial waters as shown on the most recent edition of the USGS 1:24000 (7.5 minute) topographic map. The buffer shall remain vegetated and shall be used only for access and utilities.



Applicant:
Janet G. Whitehead

Owner:
Janet G. Whitehead

Special Use Permit:
#10421 R2

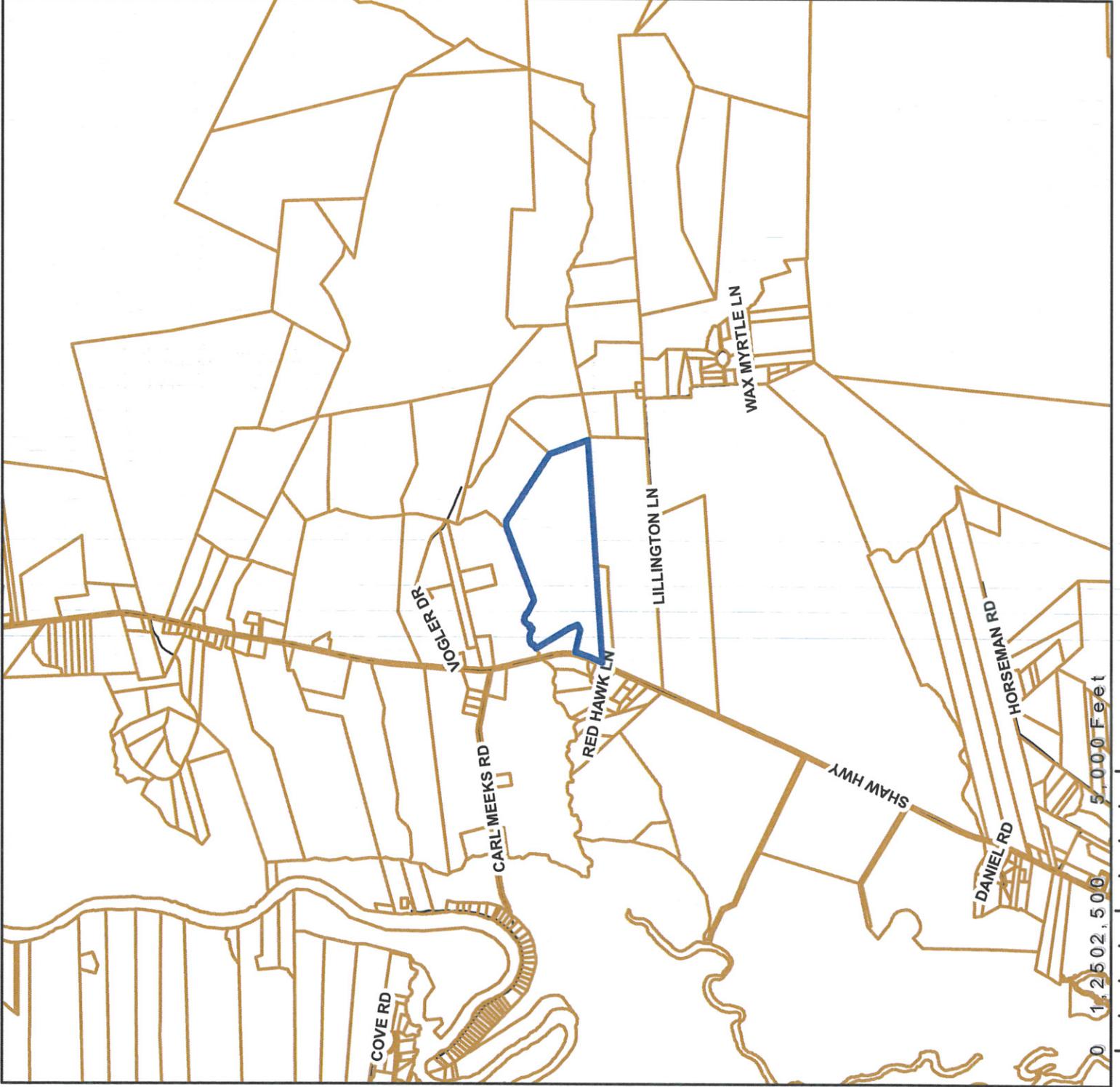
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Subject Property



Vicinity





Applicant:
Janet G. Whitehead

Owner:
Janet G. Whitehead

Special Use Permit:
#10421 R2

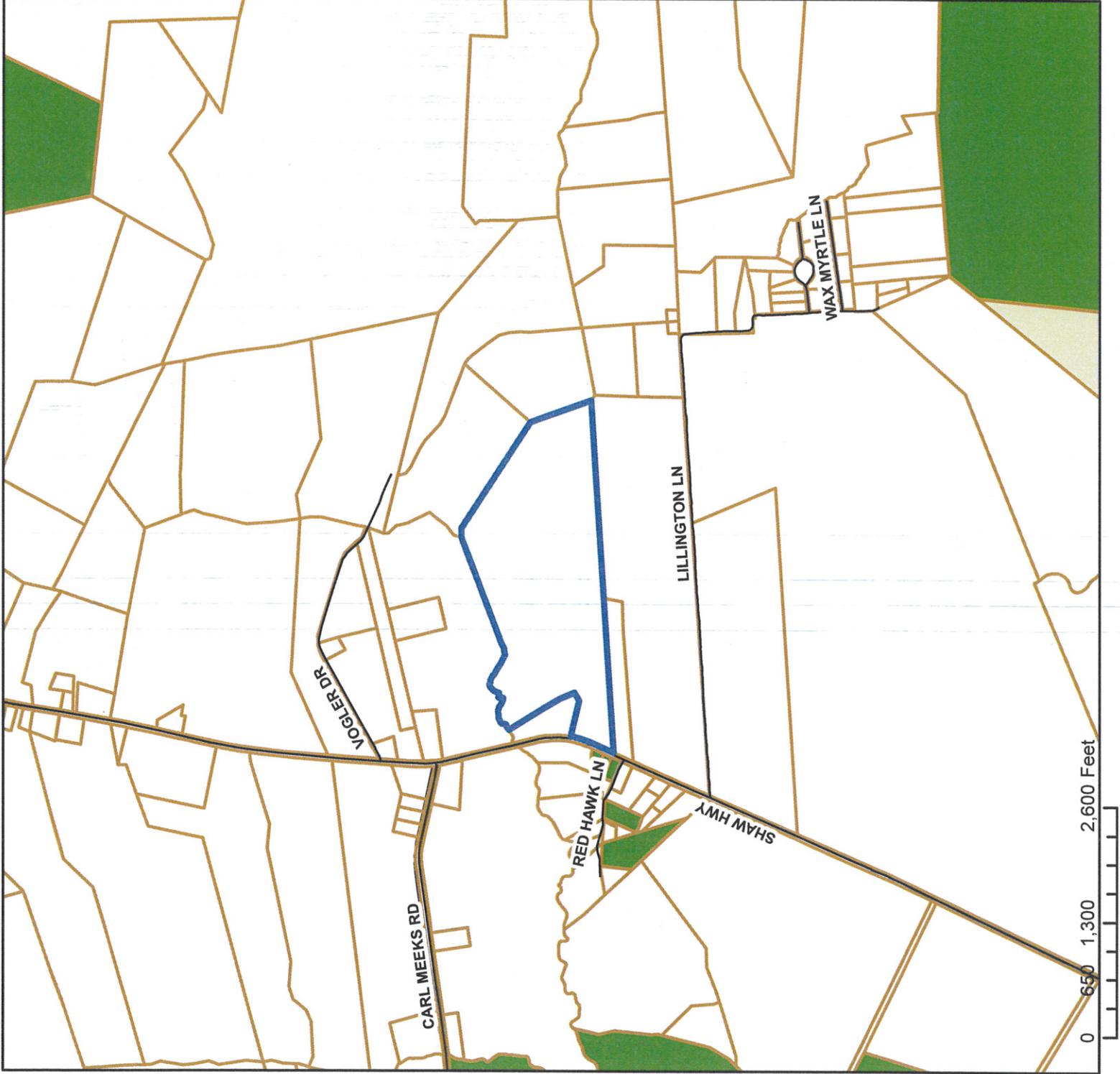
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UDO Zoning

-  EC, Environmental Conservation
-  GB, General Business
-  GI, General Industrial
-  Incorporated
-  IT, Industrial Transition
-  MH, Manufactured Housing
-  O&I, Office & Institutional
-  PD, Planned Development
-  RA, Rural Agricultural
-  RA-Conditional Zoning 1
-  RP, Residential Performance
-  Subject Property



Current Zoning





Applicant:
Janet G. Whitehead

Owner:
Janet G. Whitehead

Special Use Permit:
#10421 R2

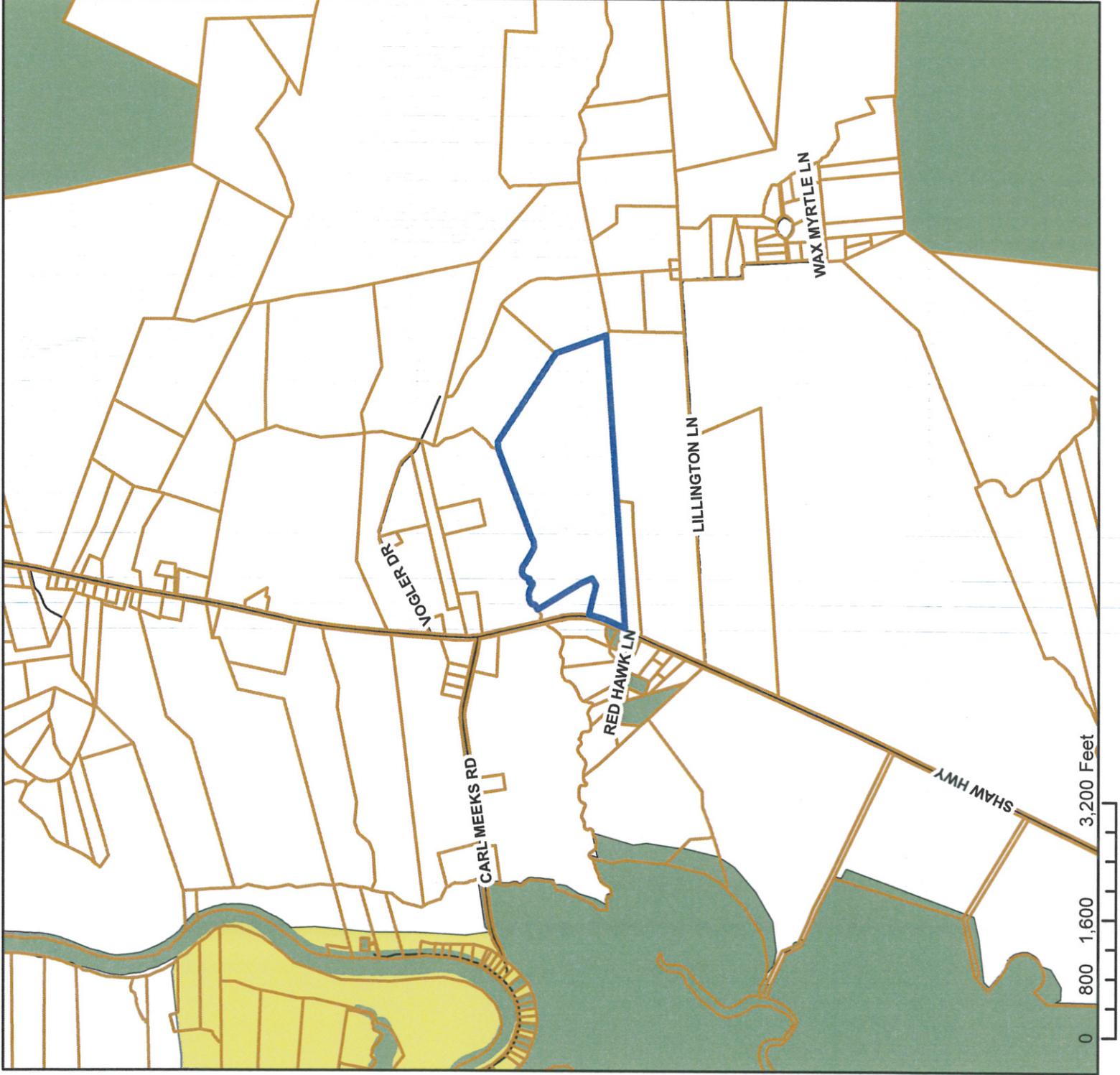
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Future Land Use

-  Industrial
-  Mixed Use
-  Office, Institutional, Business
-  Rural Growth
-  Suburban Growth
-  Subject Property



Future Land Use





Applicant:
Janet G. Whitehead

Owner:
Janet G. Whitehead

Special Use Permit:
#10421 R2

Legend



Subject Property



2012 Aerial





Applicant:
Janet G. Whitehead

Owner:
Janet G. Whitehead

Special Use Permit:
#10421 R2

Legend

- Flood Zones**
-  A
 -  AE
 -  AEFW
 -  SHADED X
 -  VE
 -  Subject Property



Flood Zones

