



ZONING APPLICATION

Northampton County Department of Planning and Zoning

16404 Courthouse Road P. O. Box 538
Eastville, VA 23347
(757) 678-0443 Phone (757) 678-0483 Fax
www.co.northampton.va.us



Zoning application is required when a project intends to change, add or expand the current use of a property and / or to construct or enlarge a building or structure. All applications submitted must include a zoning application Sections A through D, a completed Zoning Clearance checklist and the appropriate fee. Additional application form sections and checklists may be required for your specific project. Continue to follow instructions for each section and complete each section that applies to your project. Consult with County staff if necessary to determine which application sections and checklists are required for your specific project.

Section A – Owner information must be completed by the current owner of record.

- Owner (print): Gary Wagner
- Mailing address: P.O. Box 352 Cheriton VA 23316
- Phone# (h): 331-4203 (o): 331-4203 (c): 646-4203 (f): 331-2888
- Email: wagners62@aol.com
- I attest that all statements, documents, plans, and other supporting data relative to this application and submitted herewith are true to the best of my knowledge and belief. I give my permission for this application to be submitted and I give my permission for the applicant and / or agent, if any is listed below, to represent my interests as the authorized applicant and / or agent in all matters specific to this application.

Gary Wagner
Signature of owner

5/12/16
Date

Section B – Applicant information must be completed if the person(s) submitting the application is not the current owner of record and that person will be representing the owner's interests in all matters specific to this application. Examples of an applicant are a consultant, person with power of attorney, a lease holder or renter and contract purchaser. **If the owner and applicant are the same, do not complete Section B.**

- Applicant if different from owner (print): _____
- Mailing address: _____
- Phone# (h): _____ (o): _____ (c): _____ (f): _____
- Email: _____
- I attest that all statements, documents, plans, and other supporting data relative to this application and submitted herewith are true to the best of my knowledge and belief.

Signature of applicant if different from owner

Date

Section C – Agent information must be completed if the licensed professional submitting the application is not the current owner of record and that person(s) will be representing the owner's interests in all matters specific to this application. Examples of an agent are a real estate agent, surveyor, engineer, landscape architect, soil evaluator and attorney.

- Agent name (print): _____
- Company name: _____
- Mailing address: _____
- Phone# (h): _____ (o): _____ (c): _____ (f): _____
- Email: _____
- I attest that all statements, documents, plans, and other supporting data relative to this application and submitted herewith are true to the best of my knowledge and belief.

Signature of agent

Date

Section D - Zoning Clearance / Special Use Permit must be completed for all applications along with the Zoning Clearance checklist. If your project involves a Special Use Permit, which can be determined by viewing Appendix A of the Northampton County Zoning Ordinance, you must also complete the Special Use Permit checklist. Continue to follow instructions for each section and complete each section that applies to your project.

1. List the 911 address of the subject property(ies).

68-A-75

2. What is the area of the lot(s) in square feet if less than one acre and in acres if greater than one acre?

I would like to expand my existing 5 acres to 10 acres.

3. Describe all the proposed uses to be changed, added or expanded as part of this project.

Enclosed copies of state allowed uses.

4. What are the uses, heights (ft.), building coverage (sq. ft.) and total building areas (sq. ft.) of each proposed building or structure to be constructed or enlarged as part of this project?

NA

5. Describe how the subject property(ies) is currently being used.

Virginia State Certified Mine Pit.
Permit-License # 910459AA

6. What are the uses, heights (ft.), building coverage (sq. ft.) and total building areas (sq. ft.) of each existing building or structure located on the property(ies)?

NA

7. I, Gary Wagner (print name), am aware that the following improvements associated with the proposed project may be required to comply with State regulations before and / or in conjunction with the approval of this zoning application: (1) entrances onto a State maintained road must meet the current Virginia Department of Transportation standards; (2) the septic system and water supply must meet the current Virginia Department of Health Department standards for all uses on the subject property; (3) all food service establishments (restaurants) must be permitted by the Virginia Department of Health; (4) all food manufacturing business must be registered and inspected by the Virginia Department of Agricultural and Consumer Services; and (5) building(s) and structure(s) must meet current Building Codes as determined by the NHCO Building Official. I will provide copies of documents which establish the approval and / or permitting of any required improvements to the NHCO Planning and Zoning Department. I will be responsible for the installation and cost of bonding of these improvements if required before a certificate of completion and / or certificate of occupancy will be issued or final inspection completed.

Signature

5/12/16
Date

GARY & JULIE WAGNER
P. O. BOX 352
CHERITON, VA 23316
PHONE: 757 331-4203

NORTHAMPTON COUNTY SPECIAL USE PERMIT

- (a) The proposed use will be an expansion of an existing mine. The agricultural zoning allows the activity.
- (b) The land mine is existing and this would be an expansion in order to mine more material. It is already allowed to operate under the county and is state regulated.
Virginia State Permit #90459AA.
- (c) It is an already approved and regulated mining operation.
- (d) The existing mine has been in operation for over 20 years with no complaints from the adjoining property owners.
- (e) Again, this has been an ongoing operation that is regulated by the state with no adverse impact on the neighboring property owners.
- (f) The proposed expansion area is in the middle of a 40 acre parcel and is heavily screened with wooded vegetation. The access road is adjacent to a commercial area that gives it direct access to Route 13.
- (g) The expansion will not be detrimental to the neighbor hood, because it has been ongoing for the past 20 years.
- (h) The mine will be excavated and the mine will be used for an irrigation pond at the end of its useful life. The pond embankment will be graded and stabilized at the end of it useful life.
- (i) The mine is an expansion of an existing state regulated operation and is overseen by the State Division Of Mineral Mining. There has never been any violations in 20 some years of operation.
- (j) Enclosed is our operational plan as per Virginia state regulations. The impacts will be the same as they have been for 20 years.
- (k) The mining operation has been ongoing and is in accordance to Northampton County ordinances.
- (l) No existing sewage systems on site.
- (m) No existing structures or building on site.

Operational Plan

***Wagner Brothers
P.O. Box 352
Cheriton, Virginia
23316***

New Permit Application

The following information is provided as a narrative containing the operational plan for the mine site.

1

Permit Sign

The permit sign will be approximately 2 feet by 3 feet in size. Lettering will be legible and of permanent materials. It will be located at the front entrance to the mine site from State Route 633, Simpkins Siding. It will have the following information: the company name, the DMM permit number, and the telephone number for contact.

2

Screening

The site is located in a rural portion in the southern portion of the Northampton County in a mixed agricultural and residential setting. Farms and residences are near the site. Natural vegetation is still intact along most of the permitted area. The site is also near US 13. The site will be screened from view by the construction of a screening berm located on the permitted area between the mine site and US 13. The screening berm will be constructed approximately 6 feet in height with the sides sloped to 3: 1 grade or less. It will be approximately 300 feet long and parallel to US 13. The screening berm will be seeded with a grass mixture to establish erosion and sedimentation control. The screening berm will be extended and constructed as described as the site is expanded to the west to effectively restrict the view of the site from US 13.

Method of Mining

An excavators or a front-end loader will remove sand. The sand will be wet mined. If any dewatering of the pit is done, it will be pumped into the irrigation system onto the remainder of the farm field. Sand may either be stockpiled or loaded directly into over the road trucks. The sand stockpile will be located to the western side of the pit as mining progresses. The location is shown on the maps.

No processing of sand will be done on the site and no processing equipment will be installed on the site.

Since all mining is below grade and therefore is below the water table. Ground water is encountered at 3 feet below grade. The level of the ground water is determined from the level in the existing pond located on the site. An irrigation pond is being created as mining progresses. The approximate depth of mining is 30 feet. There fore, all mining is below the water table. Groundwater protection is described in another section in this plan.

As mining progresses and areas are completed, the completed areas and outer perimeter slopes of the pond will have the banks sloped to 3 to 1 or flatted. Exposed slope banks above the water level will be seeded and vegetated as each area is completed.

Permit Boundary Marking/Identification

The permit boundaries will marked with wooden stakes or iron rods with red ribbons attached to identify the boundary as mining is conducted within 100 feet of the permit boundaries where no identifiable attributes such as a fence or tree-line can clearly designate the property line.

Surface Structures

No surface structures will be constructed on the site.

4

Processing Method

No sand will be processed on the site. No processing equipment will be located on the site.

5

Spoil, Overburden, and Waste Disposal

The area contains virtually no topsoil. The land is mostly sand. Therefore little or no overburden, or waste is encountered during mining, it will remain on the site and will be used to reclaim the site.

6

Topsoil Handling

No topsoil is located on the site above the sand deposit.

The topsoil will be used to reclaim the mine site after mining is completed. Approximately 4 inches of topsoil will be applied on all areas not covered by water. The soil will be prepared by disking prior to seeding.

7

Haul Roads and Access Roads

The entrance road will enter the site from the VDOT approved entrance from Route 633 or Simpkins Siding. The entrance will conform the VDOT approved drawing. The land is level with no significant differences in elevations. The road will be constructed from sand from the site. It will be approximately 20 feet wide and 700 feet long. It will be maintained level and surfaced with sand. The road will not be equipped with any culverts.

The road will be maintained to control dust and as needed by wetting with a water.

If conditions cause tracking of materials from the mine road onto the state route, the tracked materials tracked will be cleaned up.

8

Drainage Plan

All drainage from the mine site will be directed into the present pond located on the site that is within the permitted area. The present pond is approximately 450 feet long, 120 feet wide, and 30 feet deep. It has adequate capacity to store the drainage from the five acres in this permit. Capacity of the present pond will continue to increase as the pit expands. All drainage will be directed into the pit created by mining.

A drainage canal is located in the northern corner of the present pond. It is connected to the drainage the property.

If dewatering of the pit is required, the water will be pumped and discharged into the existing irrigation system located on the farm property. Only clear water pumped from the pit can be used to irrigate the farm if needed.

9

Groundwater Management

Groundwater is encountered at 3 feet below the surface. The level is determined by the level of the water in the existing pond on the permitted area. The drainage from the site is directed to the present pond located on the permitted area and to the newly excavated enlargement of the present pond.

Six privately owned wells are known to be located within 1000 feet of the mine site. The depths of these wells ranges from 200 feet to 320 feet deep as determined from depth information provided by the adjacent property owners.

Surface water that is unconfined lies in the 30 to 50 feet depth. This is determined by irrigation wells located on adjacent property as determined by information provided by adjacent property owners.

Mining will encounter the unconfined surface water table. Precautions will be taken to prevent the introduction of potential pollutants into the groundwater.

The following precautions will be practiced to prevent the introduction of pollutants into the water:

- No diesel fuel storage will be located on the permit.
- All scheduled maintenance of equipment will be done offsite to prevent spills of motor oils, hydraulic fluids, transmission fluids, grease, anti-freeze, degrease solvents, etc. on the site that could potentially enter the ground and water.
- The equipment will be inspected for leaks of fluids.
- Leaks will be repaired promptly and not allowed to contaminate the ground and potentially enter the ground water.
- Any trash generated will be cleaned up daily and removed from the site.
- Should a spill of potentially toxic or hazardous materials occur, all measures to contain and confine the spill are to be implemented. The spill will be controlled by the construction of a berm from sand or other adsorbent materials to prevent spreading into the water or being carried by water or rain into the drainage basin.
- Any contaminated materials used will be removed from the site and properly disposed.
- Professional assistance will be used if needed to properly clean a spill.

If water is pumped from the pit in this area and it will be discharged into the irrigation system on the adjacent farmland. The water irrigates the farmland, recirculates, and recharges the water in the pit.

10

Construction, Maintenance, and Abandonment

The existing pond and the additional pond created by mining will serve as the drainage control structure. As the site is mined, the sediment control basin and drainage structure is being constructed and enlarged. As mining progresses, the

excavation and enlargement will continue to provide more than adequate capacity and little maintenance would be required. Cleaning or repairs will be done only as needed and conditions indicate that capacity is being affected.

The abandonment plan of the basin that is created by mining is to become an irrigation pond or irrigation lake. The outer slopes will be 3:1 slopes or flatter. The areas above the water will be graded, seeded, and vegetation established.

The entrance road and other roads constructed during mining may be left at the landowner's discretion for access to the property.

11

Post Mining Land Use

Upon completion of mining, the mine site will become an irrigation lake with a vegetated perimeter in an agricultural area. The outer banks of the lake will be sloped 3:1 or flatter and all areas above the will be graded and seeded. The lake will serve as an agricultural pond to provide irrigation water to the farm and enhance wildlife.

12

Backfilling & Re-grading

The slopes may either be mined at 3 to 1 or the excavated wall or outer perimeter of the lake may be backfilled to 3:1 or flatter by using materials from the site.

Material not regulated by DEQ-Waste Management may be brought onto the site with approval from the Division of Mineral Mining. This material would include: broken concrete, brick, block or any other materials so designated by DEQ. The County shall also be contacted concerning any of these materials that are to be brought onto the site for approval prior to bringing them on the mine site. Prior approval from said agencies is required.

No metal, lumber, or debris will be left on the mine site.

No stumps, debris, building materials, tires, or house garbage will be brought on the site during the life of this operation. Any waste brought onto the site or generated at the site will be removed promptly and disposed properly.

13

Re-vegetation

Topsoil will be re-applied to a depth of approximately 4 inches. Fertilizer of an appropriate strength such as 10-10-10 will be applied at the rate of 1000 pounds per acre. Agricultural lime will also be added at a rate of approximately 1 ton per acre. These will be used accordingly to adequately nourish the grasses to be planted around the perimeter of the lake and on the slopes. The soil will be loosened to a depth to prepare a seed bed for the mixture.

The seed mixture will be:

- Annual Rye @ 40 pounds per acre
- Fescue @ 40 pounds per acre

Name



Date

10/4/04



COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF MINES, MINERALS AND ENERGY
 DIVISION OF MINERAL MINING
 909 NATURAL RESOURCES DRIVE
 SUITE 400
 CHARLOTTEVILLE, VIRGINIA 22908
 (434)691-6316

JYS0001778

INSPECTION REPORT

NAME AND ADDRESS OF PERMITTEE:

GARY & JULIE WAGNER
WAGNER BROTHERS
PO BOX 362
CHERITON, VA 23318

PERMIT NUMBER: 90459AA
LOCATION: 2 MILES SOUTH OF EASTVILLE ON US 13 RT 633
COUNTY: NORTHAMPTON
TYPE OF MINING ACTIVITY: OPEN PIT
OPERATION STATUS: N - Intermittent
COMPLAINT NO.: _____

MSHA NO.: N/A

PURPOSE OF INSPECTION: REGULAR
TELEPHONE: OFFICE: (757)331-4203

MINE: (757)331-4203
MINERAL PRODUCED: SAND

MINE NAME: #1
FOREMAN: Gary Wagner (Non-Certified)
ACREAGE - PERMITTED: 5

BONDED: 5 **NO. OF EMPLOYEES:** 0
LAST REGULAR INSPECTION: 02/04/15
NO. OF LAST ORDER: 0
YEAR TO DATE: 0

ANNIVERSARY DATE: 10/04/16
NO. OF LAST NOTICE: V71452
NUMBER OF ACCIDENTS SINCE LAST INSPECTION: 0
INSPECTOR ACCOMPANIED BY: No One

(S) SATISFACTORY; (N) NOT APPLICABLE; (X) UNSATISFACTORY; () NOT INSPECTED

DURING THE INSPECTION OF THIS MINE, THE FOLLOWING ITEMS OR CONDITIONS WERE INSPECTED OR EVALUATED:

SNR (S) 1st (N) 2nd (N) 3rd

SAFETY REGULATIONS

- (S) Part I Gen. Administrative Provisions
- (S) Part II General Safety Provisions
- (S) Part III Ground Control
- () Part IV Fire Prevention
- () Part V Air Quality and Physical Agents
- () Part VI Explosives
- () Part VII Drilling
- () Part VIII Compressed Air, Gases & Boilers
- (S) Part IX Mobile Equipment
- () Part X Personal Protection
- (S) Part XI Travelways
- () Part XII Electricity
- () Part XIII Materials Handling

- () Part XIV Guards
- () Part XV Underground Only
- () Part XVI Mining near Gas and Oil Wells

GENERAL MINING LAW
 (S) Title 48.1 Code of Virginia

RECLAMATION REGULATIONS

- (S) Part I General Requirements
- (S) Part II Permit Standards
- (S) Part III Bonding
- (S) Part IV Performance Standards
- (S) Part V Orders

CHECK RECORDS: ACCIDENT
HOURS: 1

COMMENTS/RECOMMENDATIONS:

7/9/2015 - A regular inspection was completed at Wagner Brothers Mine #1 90459AA located 1/2 mile east of US 13 near 5140 Simpkins Siding Road in Northampton County.

Regular Safety

The entrance to the mine was open at the time of inspection. There is means to limit access to the pit when the mine is idle. The road is reasonably well maintained. No mine personnel were on site at the time of this inspection. Safety restraint berms are in place and adequate where needed. The banks above the water appear stable.

Equipment:

Cat T118 Frontend Loader

No notices of violation were issued.

Regular Reclamation

Permitted Area:

The permit consists of 5 acres that are permitted and bonded. Excavation has formed one large pond and two smaller ponds. The pit has not been dewatered for mining for several past inspections. The pit is screened from US 13 by a vegetated berm and pine trees. The operator has an amendment to bring inert materials onto the permit from offsite sources. Concrete and brick are stored on the site.

Drainage & Sediment

The mine pit serves as the collection basin for all surface storm water. All runoff is confined to the permit. No water is discharged from the permit at the time of this inspection.

Inspection Synopsis:

Inspection by James Schaefer

The site was idle at the time of inspection

No violations or special orders issued

Weather: Warm windy and dry

Anniversary 10/4/16

A copy of this report was sent to Gary and Julie Wagner.

COPY OF REPORT: (MAILED TO) Wagner Brothers

INSPECTION DATE:

07/09/15

INSPECTOR: SCHAEFER, JAMES E.

(Signature)

TOTAL HOURS: 2

INSPECTION SYMBOLS:



COMMONWEALTH of VIRGINIA

G. GENE DISHNER
DIRECTOR

BENNY R. WAMPLER
DEPUTY DIRECTOR

Department of Mines, Minerals and Energy

Division of Mineral Mining

P.O. Box 3727
Charlottesville, Virginia 22903-0727
(434)951-6310

Conrad T. Spangler III, Division Director

DIVISIONS
ENERGY
GAS AND OIL
MINED LAND RECLAMATION
MINERAL MINING
MINERAL RESOURCES
MINES
ADMINISTRATION

PERMIT/LICENSE TO OPERATE A MINE

Permit/License No. 90459AA

Was issued to **WAGNER BROTHERS - #1**
Whose main office is located at **PO BOX 352
CHERITON, VA 23316**

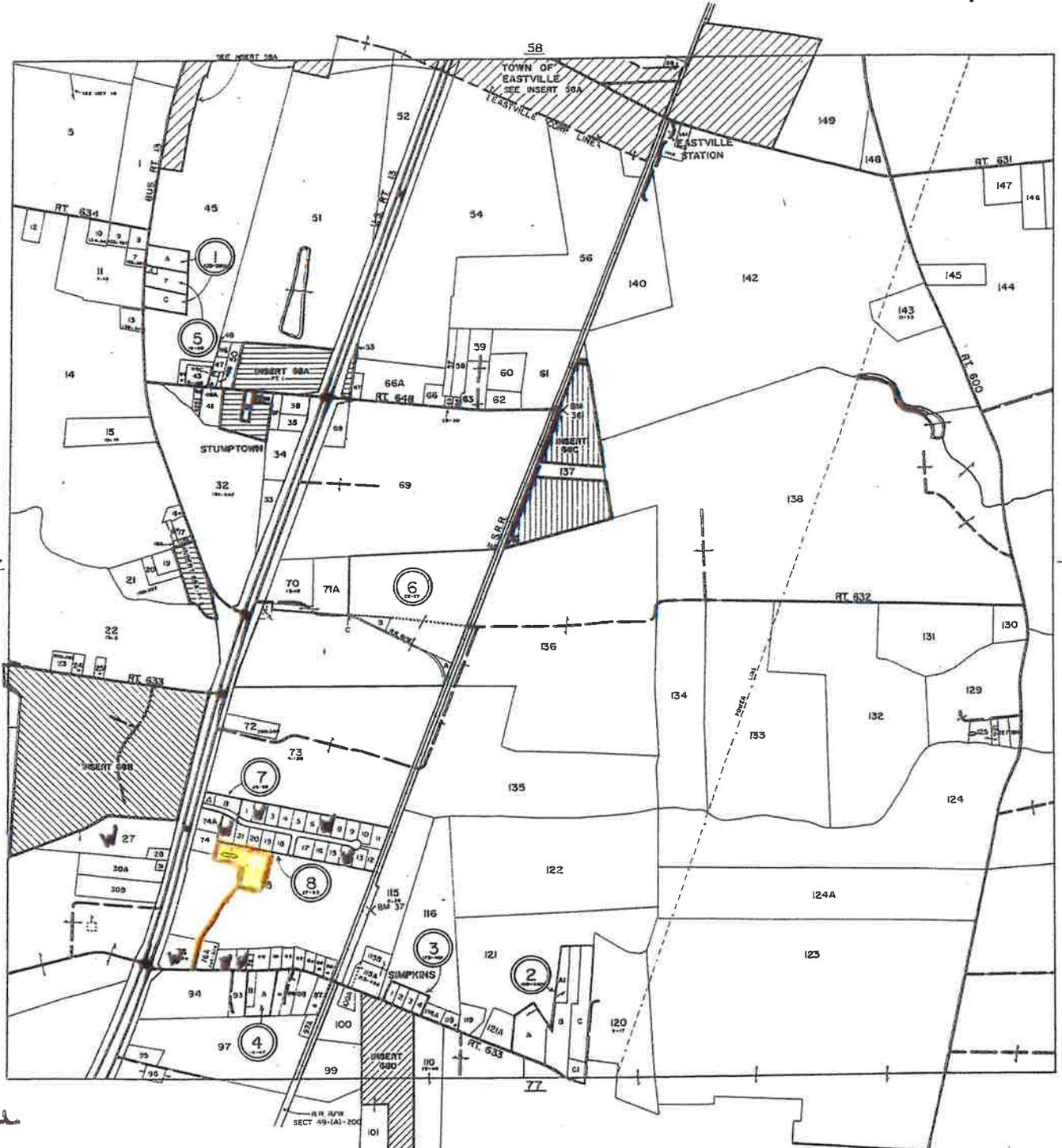
For type of mineral(s) **SAND**
Mine Type **OPEN PIT** Exemption Type **N/A**
Located at **2 MILES SOUTH OF EASTVILLE ON US 13RT 633 IN**
County of **NORTHAMPTON**

THIS PERMIT IS ISSUED PURSUANT TO CHAPTER 14.1 AND 16, TITLE 45.1, CODE OF VIRGINIA (1950), AS AMENDED Being an Act to require permits/licenses for certain mining operations and to fix conditions for issuance thereof; to provide that certain safety and reclamation practices be performed by mine operators and for inspection thereof, and to advise on satisfactory compliance; to require an annual report on progress of reclamation and tonnage of mineral mined; to provide for the Director to seek injunctive relief; to provide for a Board of Surface Mining Review, a Board of Mineral Mine Examiners, and to provide for appeals from rulings, violations and decisions of the Department or associated Boards.

Issued **OCTOBER 04 2004**
Covering **5.00 ACRES.**
Receipt number **26461**

THIS PERMIT/LICENSE MUST BE POSTED NEAR THE MINE OFFICE

NORTHAMPTON COUNTY



W - WELL



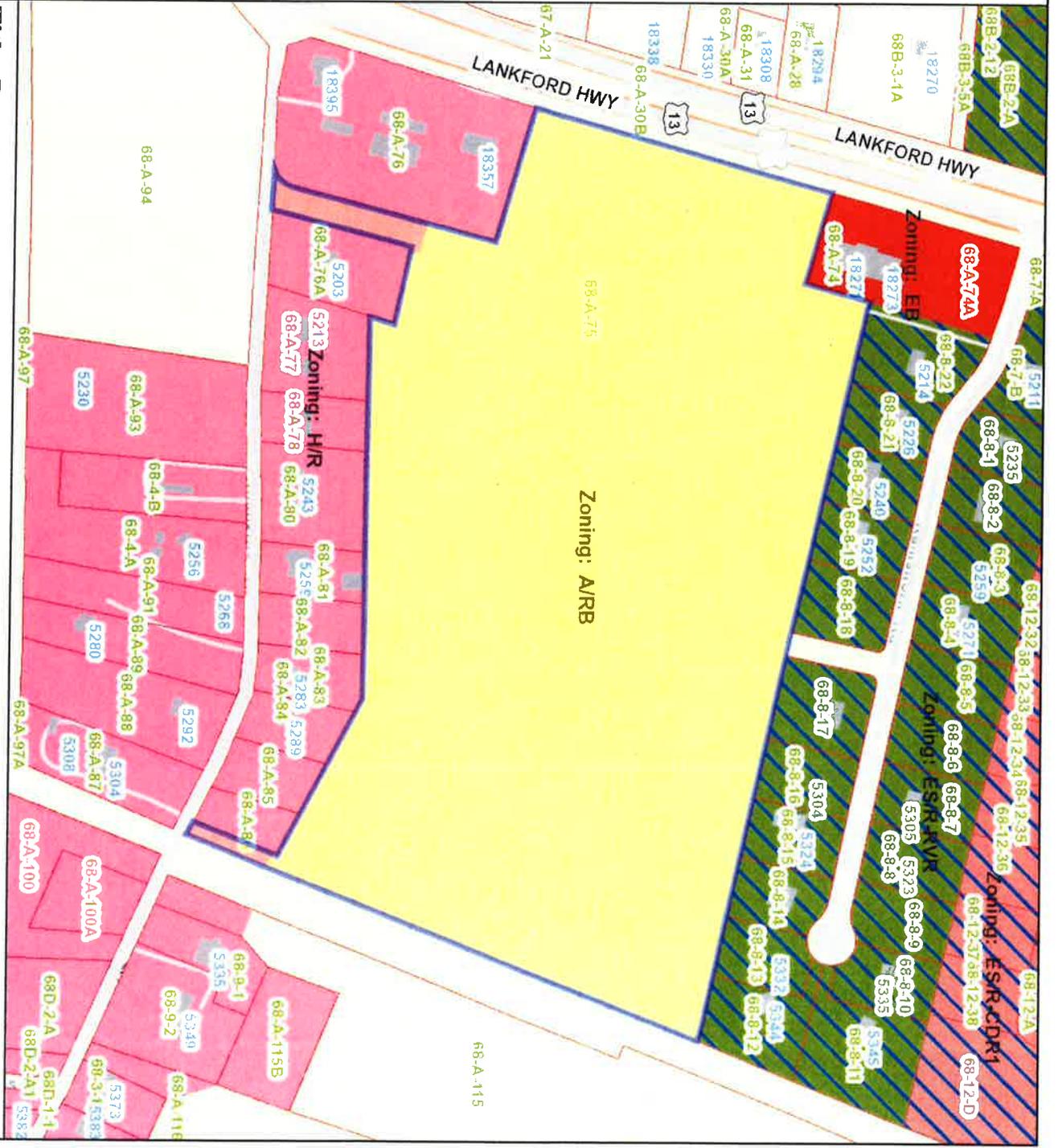
SCALE: 1" = 1000'

SECTION 68
INSERT

EASTVILLE DISTRICT

DELIVERED DEC 3 1 2001

- V/R - Village/Residential
- V1 - Village-1
- VNB - Village Neighborhood Business
- W/H/R - Waterfront Hamlet/Residential
- W/V/R - Waterfront Village/Residential
- W/V1 - Waterfront Village - 1
- W/VNB - Waterfront Village Neighborhood Business
- W/VWC - Waterfront Village Waterfront Commercial
- W/W - Working Waterfront



Title: Parcels

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.

Date: 5/17/2016

Map Printed from Northampton
<http://northampton.mapsdirect.net/>



Northampton County, Virginia

Legend

- Town Names
- Route Numbers
- Road Labels
- Parcels
- Building Footprints
- Pavement
- Driveways
- 2016 Adopted Zoning
- A/RB - Agriculture/Rural Business
- Bayview PUD
- C - Conservation
- C-1 - Commercial-1
- EB - Existing Business
- ECC/R - Existing Cottage Community/Residential
- EI - Existing Industrial
- ES/R-A1 - Existing Subdivision/Residential - Agriculture-1
- ES/R-CDR1 - Existing Subdivision/Residential - Community Development Residential -1
- ES/R-CDRR - Existing Subdivision/Residential - Community Development Rural Residential
- ES/R-EBCW - Existing Subdivision/Residential - Existing Business Commercial Waterfront
- ES/R-RVR - Existing Subdivision/Residential - Rural Village Residential
- ES/R-RVRM - Existing Subdivision/Residential - Rural Village Residential Mixed
- ES/R-RVRR - Existing Subdivision/Residential - Rural Village Rural Residential
- H/R - Hamlet/Residential
- MHP - Mobile Home Park
- TE-CG - T'won Edge - Commercial General
- TE1 - Town Edge-1 TOWN

37.5 Acres

Theresa Adkins

From: Richardson, Jonathan (VDH) [Jon.Richardson@vdh.virginia.gov]
Sent: Monday, May 23, 2016 8:15 AM
To: 'Theresa Adkins'; Pusey, Dale (VDOT); Plant, Cathy (VDH)
Subject: RE: SUP 2016-05

No VDH comments on this project.

Thanks,
Jon

From: Theresa Adkins [<mailto:tadkins@co.northampton.va.us>]
Sent: Friday, May 20, 2016 2:17 PM
To: Pusey, Dale (VDOT); Plant, Cathy (VDH); Richardson, Jonathan (VDH)
Subject: SUP 2016-05

I have attached a SUP 2016-05 for you review and comments. Please have comments back to me by May 27, 2016 if you can. If you have any questions please let me know.

Theresa A Adkins

Office Coordinator

Northampton County

PO Box 538

16404 Courthouse Rd.

Eastville, VA 23347

V- 757-678-0443 ext: 524

F-757-678-0483

Email- tadkins@co.northampton.va.us

Theresa Adkins

From: Pusey, Dale (VDOT) [Dale.Pusey@vdot.virginia.gov]
Sent: Friday, May 27, 2016 5:01 PM
To: 'Theresa Adkins'
Subject: RE: SUP 2016-05

Theresa,

The application did not comment on the amount of vehicular traffic to the site under both existing and proposed conditions. Please provide a statement from the owner in that regard. Also, I was not able to inspect the entrance to determine its condition. An upgraded entrance may be required after receipt of traffic flow information and inspection of the site.

Dale Pusey, P. E.
Area Land Use Engineer
Hampton Roads District
Accomac Residency

Virginia Department of Transportation
23096 Courthouse Avenue
Accomac, VA 23301
Office: (757) 787-5932
Email: dale.pusey@vdot.virginia.gov

From: Theresa Adkins [<mailto:tadkins@co.northampton.va.us>]
Sent: Friday, May 20, 2016 2:17 PM
To: Pusey, Dale (VDOT); Plant, Cathy (VDH); Richardson, Jonathan (VDH)
Subject: SUP 2016-05

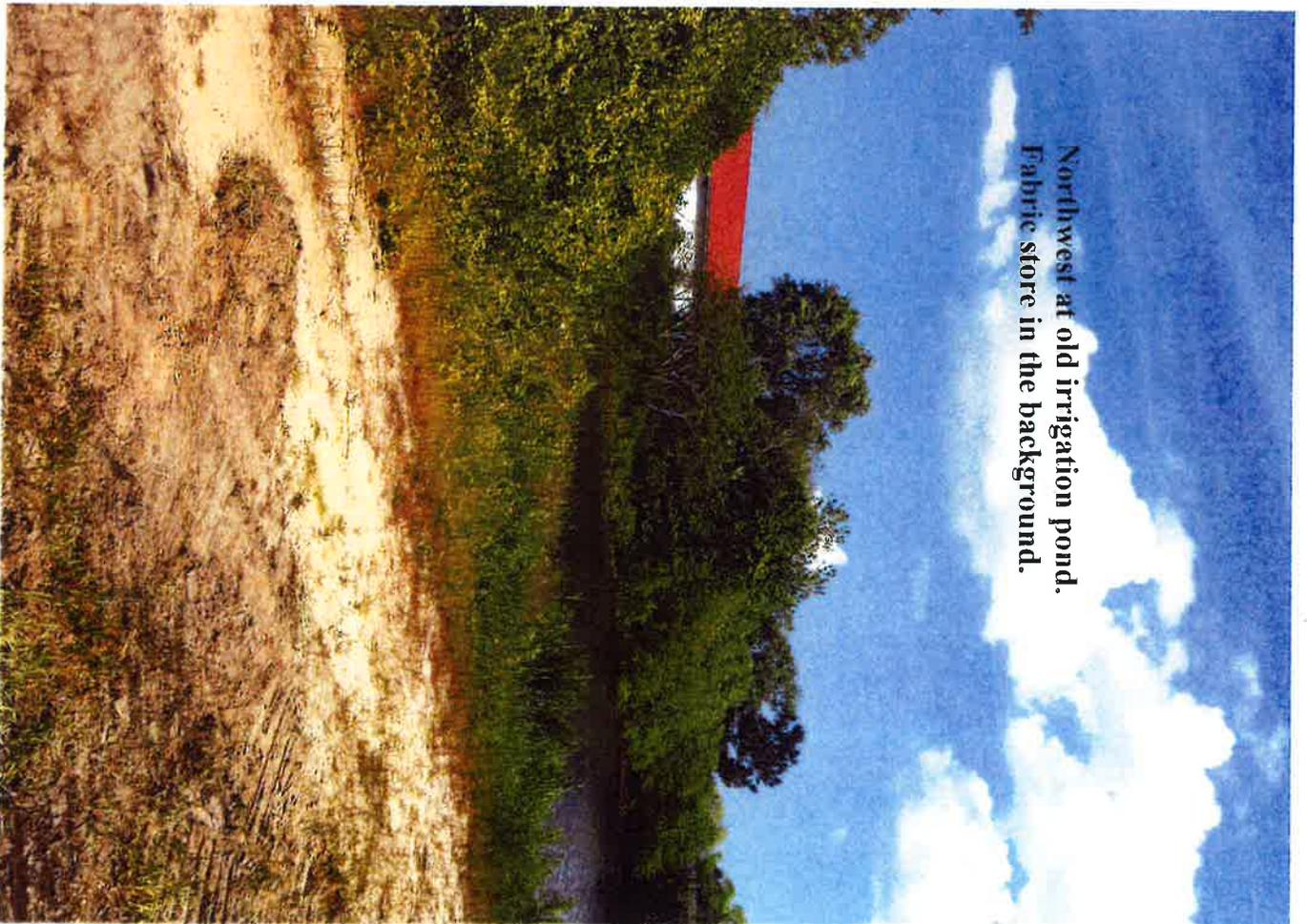
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Theresa A Adkins

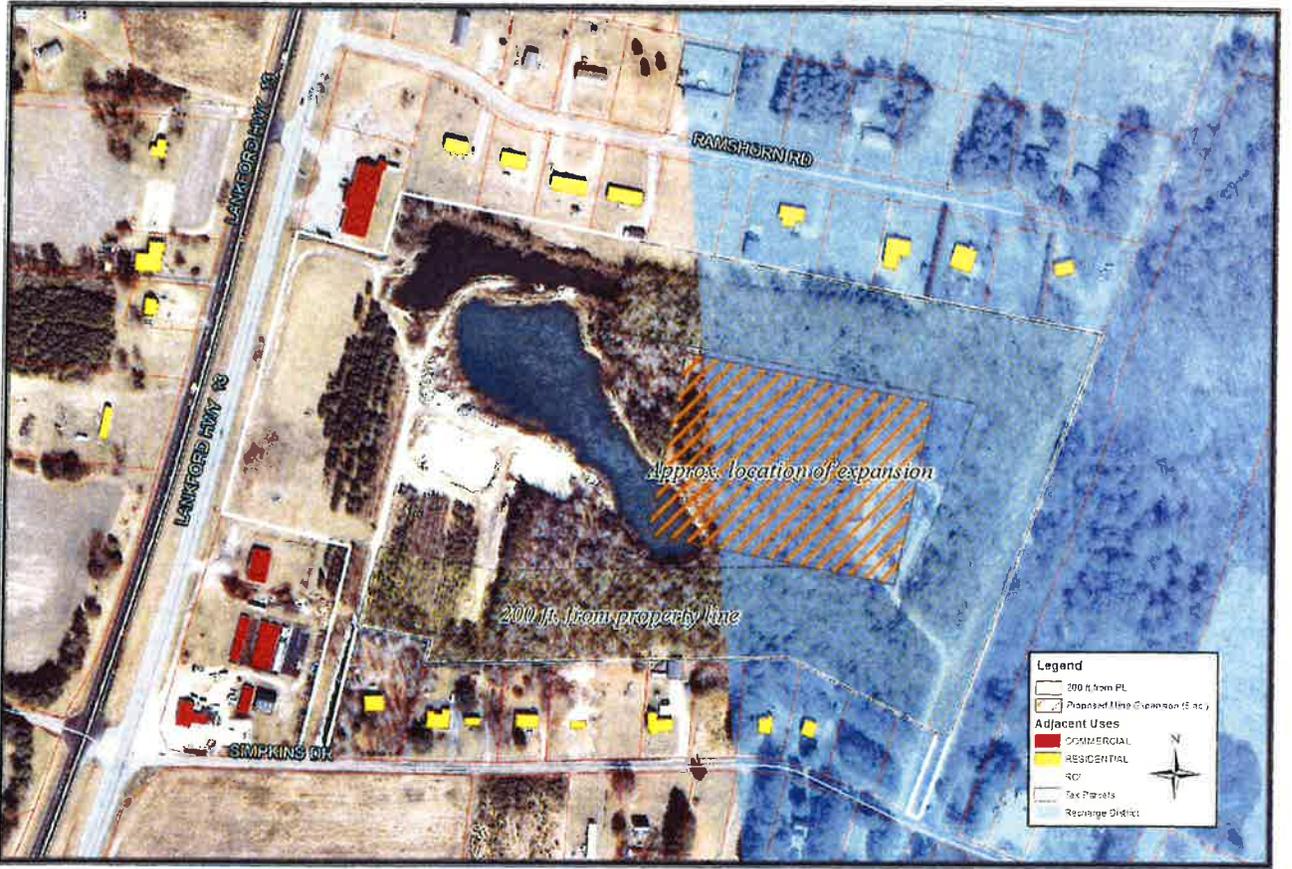
Office Coordinator
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V- 757-678-0443 ext: 524
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Email- tadkins@co.northampton.va.us



East at entrance to site.



**Northwest at old irrigation pond.
Fabric store in the background.**



North at area where old irrigation pond and existing pond meet.

Northeast at area proposed to be enlarged.



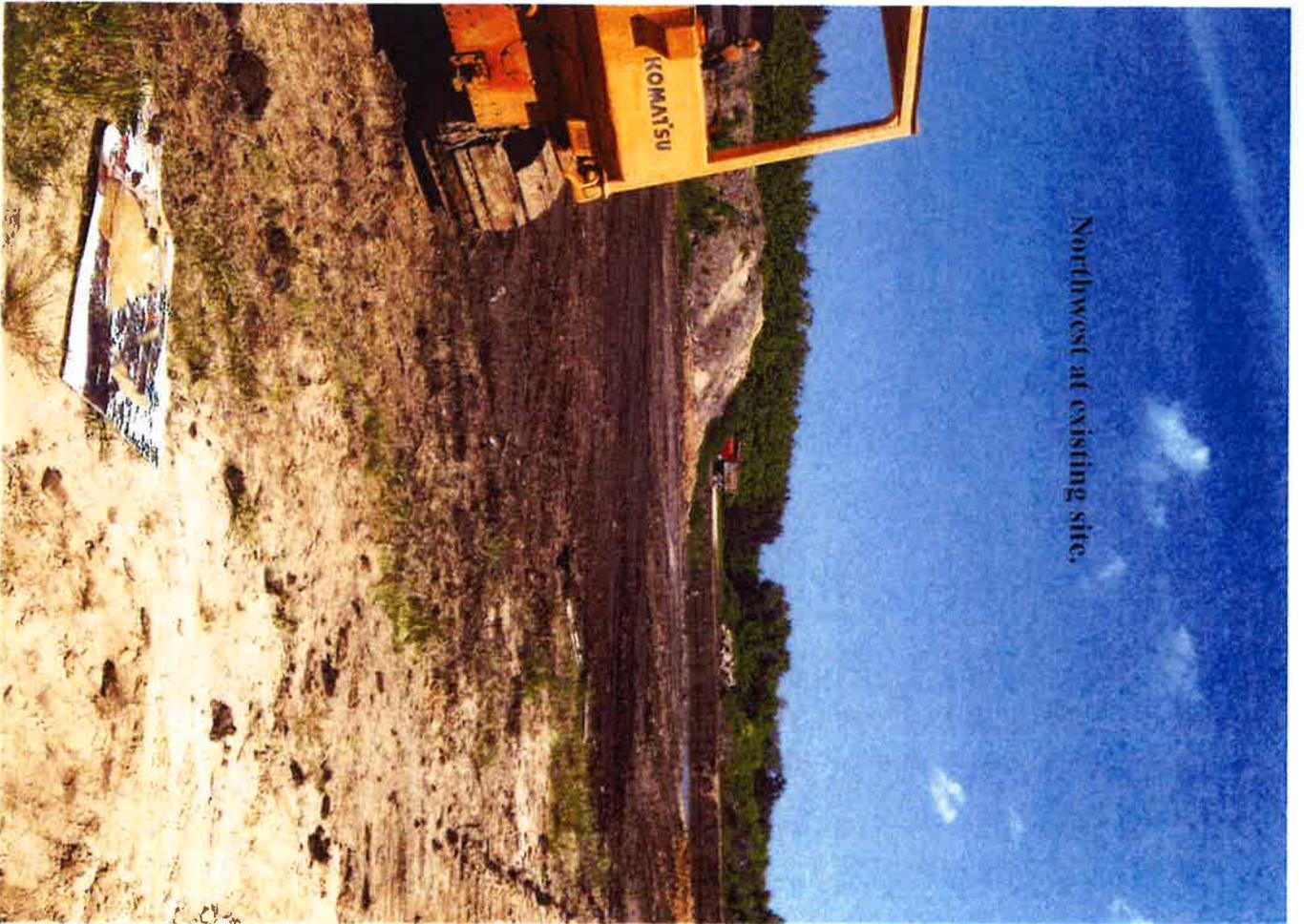
Northeast at existing site.



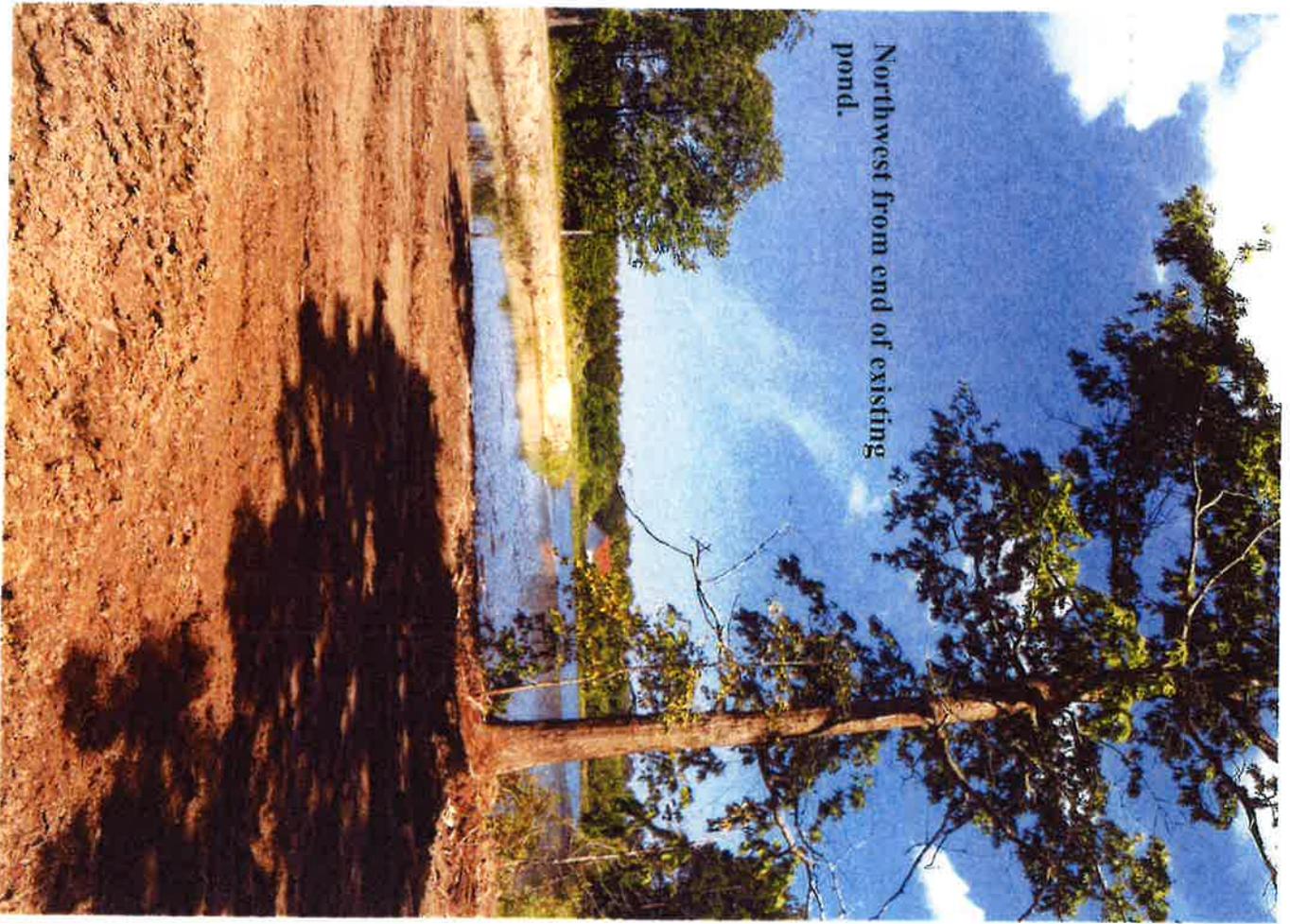
Looking North at entrance to site.



Northwest at existing site.



Northwest from end of existing pond.





DEVELOPMENT DEPARTMENT NORTHAMPTON COUNTY, VIRGINIA

Development Department
Kris Tucker, Director
- Planning
- Zoning
- Building
- Code Compliance
- Economic Development

16404 Courthouse Road
P.O. Box 538
Eastville, VA23347
Phone: 757-678-0443
Fax: 757-678-0483
www.co.northampton.va.us

Staff Report

Petition: Special Use Permit 2016-05
Applicant/Owner: Gary Wagner
Staff Reviewer: Peter Stith, AICP *PS*
Long Range Planner
Site Visit Conducted: May 20, 2016
Date: May 23, 2016

General Information/Background

- A) **Special Use Permit 2016-05:** Gary Wagner has applied to obtain a special use permit for a Borrow Pit (NCC, 4/12/2016, Appendix A, Category 5 Industrial Uses #09) on property located Simpkins Dr., near Eastville. The property, described as Tax Map 68, double circle A, parcel 75, is zoned A/RB, Agriculture/Rural Business and contains approximately 37.52 acres of land.

Existing Conditions and Zoning

The property to the southwest contains Applesseed Nurseries and is zoned H/R – Hamlet/Residential. The subject property abuts Route 13 directly to the west and has approximately 630 feet of frontage. The fabric shop is located to the northwest and is zoned EB, Existing Business. Eleven parcels border the north side of the property, eight of which contain dwellings. These eleven parcels are zoned ES/R-RVR, Existing Subdivision/Residential – Rural Village Residential. The adjacent property to the west is the railroad. Ten parcels border this property to the south, seven on which contain dwellings. These parcels are zoned H/R – Hamlet/Residential.

The special use permit request has been made by the applicant in order to expand the current mine. The applicant has been using the site for approximately 20 years as part of his landscaping business. In 2004, the applicant received a permit through Department of Mines, Minerals and Energy (DMME) for an open pit sand mine. DMME conducts biannual inspections and the applicant must renew the permit on an annual basis to remain active. The original Operational Plan is included to show the performance standards the mine must comply with for the site. Some of these include screening, grading, access to the site, what material can be onsite, groundwater protection, erosion and sediment control and stormwater. If the SUP is approved, an amendment to the state permit will be required to increase the boundaries of the mine. The amendment to the state permit will also have to address any new environmental (wetlands, streams), Erosion & Sediment control and stormwater issues. The applicant is seeking County approval first.

The map below shows the approximate location of the expansion area (orange hashed area). It also shows the main groundwater recharge spine (light blue) as well as adjacent residential and commercial uses.

Ground Water: Part of the property is located within the main recharge area spine, with most of the area of the proposed expansion falling within the spine. See first map for area within recharge spine. The Operational Plan has a section on groundwater management which lists measures to take to ensure no pollutants enter the groundwater. The site plan states the mine will be up to 30 feet deep.

Chesapeake Bay Preservation Areas: The property does not contain a Resource Protection Area.

Section 154.2.042 (B) (4) *Special use permit approval guidelines* of the zoning code sets forth eleven (11) criteria which should be addressed before issuance of a special use permit. The criteria and staff comments on each follow.

(a) *The proposed use and/or structure are allowed under the district regulations or elsewhere in this Ordinance:* A Borrow Pit is allowed by special use permit in the Agriculture/Rural Business, Village-1, Waterfront Village-1, Town Edge-1, and Existing Industrial districts.

(b) *The proposed use and/or structure complies with the regulations governing individual special uses:* There were no comments from the Health Department. VDOT may submit additional comments, but at the time this staff report was written they had only provided initial comments. This use is exempt from the Erosion & Sediment control ordinance and from Stormwater regulations.

(c) *The proposed use and/or structure are consistent with the County's Comprehensive Plan:* This is an expansion of an existing use located in an agricultural district. The site has been active for over 20 years and has been a permitted mine since 2004 through the DMME.

(d) *The proposed use and/or structure will not change the character of the neighborhood, area, or district in which it will be located:* The property has an existing state permitted mine. The SUP request is to expand the mine an additional 5 acres. The applicant has indicated mining has been active on the site for more than 20 years with no complaints from adjacent property owners. The adjacent properties are screened by a heavily wooded buffer.

(e) *The proposed use and/or structure, and accompanying parcel development, are in harmony with the uses permitted by right in the zoning district and with the intent of the zoning district regulations and will not adversely affect the use of neighboring property or impair the value thereof:* The proposal is to expand the current mining use on the property, which has been active for 20 years. The dwellings located to the north of the site were constructed after the mining operation had already started.

(f) *The proposed use and/or structure will not be hazardous or injurious to or in conflict with the character of the neighborhood considering the size and location of the use, the nature and intensity of the operation involved or conducted in connection with it, its site layout, and its relation to roads giving access to it:* There are adjacent parcels with dwellings located to the north and south of the subject parcel. Maintaining a fully vegetated buffer will screen the mining operation from adjacent parcels.

(g) *The proposed use and/or structure will not adversely affect the health and safety of persons residing or working in the neighborhood of the proposed use:* The proposed use would not be expected to adversely affect the health or safety of people working or residing in the neighborhood. The location of the proposed expansion is in the center of the parcel. Ensuring a fully vegetated buffer will screen the use from adjacent parcels.

(h) *The proposed use and/or structure will not be detrimental to public welfare or injurious to property or improvements in the neighborhood:* See comments on (e), (f), and (g) above.

(i) *The proposed use and/or structure will protect and not cause damage to the County's fresh water aquifer and water quality (including groundwater):* The proposed use would not be expected to be a major water user. The property is located within the recharge spine. The project will be regulated by DMME. The Operational

Plan specifies guidelines for preventing pollutants entering the mine. Restricting the depth of the mine and complying with the standards in the OP will help protect pollutants from entering the groundwater.

(j) The application, along with the development conditions and safeguards imposed, adequately mitigates the impacts of the proposed use and/or structure: DMME conducts regular scheduled inspections, typically twice a year and an annual renewal process is required to keep the mine active.

(k) The proposed use and/or structure will otherwise be in accord with the provisions of the Ordinance: The proposed use will comply with the provisions of this ordinance. See letter (j) above.

Staff Comment

The subject property has been operating as a permitted mine and is proposing to expand the operation an additional 5 acres. The mine is also permitted through the Department of Mines, Minerals and Energy and they conduct biannual inspections. The applicant must renew the permit on an annual basis through DMME in order for it to remain active. This use is exempt from both the Erosion & Sediment Control Ordinance and the Stormwater regulations. Staff suggests a minimum of 200 foot buffer where possible (as shown on the site plan), especially to the north, south and east, to screen the proposed use from adjacent dwellings. "No Trespassing" signs would discourage access to the site. When not in use, any access to the site should be blocked so no vehicles can access the site. The Operational Plan (OP) specifies protection measures to prevent pollutants from entering the groundwater. Staff recommends consideration of the bullet points listed on page 6 of the OP as conditions of the SUP if recommended for approval. Additional conditions for consideration included limiting the pond depth to 30 feet as shown on the site plan, complying with grading of side slopes of the pond as noted in the OP and where there is not sufficient buffering additional safety measures should be put in place, i.e. fencing or vegetation, especially on the northern edge. Staff noted on the site visit there was a pile of tires which should be removed and properly disposed of at the County Transfer Station.

the certificate of acknowledgment thereof thereto annexed, received by me in my said office this day and admitted to record at 9:00 o'clock, A. M. Taxes imposed by Section 58-84.1 of the Code of Virginia have been paid in the amount of \$3.00.

Teste: Clyde E. Gibb, Clerk

By [Signature] Day. Clerk

No. 883

THIS DEED made this 4th day of November, 1983, by and between Karl Gaywood Wagner and Margaret D. Wagner; husband and wife, parties of the first part, and Gary W. Wagner and Julie L. Wagner, husband and wife as tenants by the entireties with full right of survivorship as at common law, parties of the second part.

WITNESSETH: That the parties of the first part, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration cash in hand paid at and before the signing, sealing and delivery of these presents, the receipt and sufficiency whereof is hereby acknowledged, do give, grant, bargain sell and convey with GENERAL WARRANTY OF TITLE AND ENGLISH COVENANTS OF TITLE unto Gary W. Wagner and Julie L. Wagner, husband and wife as tenants by the entireties with full right of survivorship as at common law, the following described real estate, to-wit:

Tract I. All that certain tract or parcel of land, together with the buildings and improvements thereon, containing fifty-six acres (56 A.), more or less, situate on the East side of U.S. Route 13 about one and one-half (1 1/2) miles South of Eastville, Northampton County, Virginia, and bounded on the North by the lands of Cecile Mears Turner and Benj. W. Mears, Jr.; on the East by the right of way of the Eastern Shore Railroad Company; on the South by Simpkins Siding Crossroad, the lands formerly belonging to B. F. Hovermale and hereinafter described and conveyed, and the lands of Estelle Lewis, Richard W. Kellam and others; on the west by U.S. Route 13 and the lands formerly belonging to B. F. Hovermale and hereinafter described and conveyed, and the lands now or formerly owned by James C. Allen. It being the same real estate conveyed to Karl Gaywood Wagner and Margaret D. Wagner by

*Filed 11-6-84
Printer
Capt. Charles*

Vito Mione, et ux, by deed dated February 24, 1965, and of record in the Clerk's Office of the Circuit Court of Northampton County, Virginia, in Deed Book 153, page 182, to which said deed reference is hereby made for a more accurate and particular description of the property herein conveyed.

Tract II. All that certain lot or parcel of land situate on the east side of U.S. Route 13, south of Eastville, Northampton County, Virginia, and bounded on the South by the Simpkins Siding Crossroad, on the West by U.S. Highway 13, on the North and East by Tract I. hereinabove described, and said lot or parcel of land hereby conveyed is all as shown on a plat of record in Plat Book 7, at page 24, which is attached to and made a part of that certain deed from Ethel M. Hovermale to Karl Gaywood Wagner and Margaret D. Wagner, husband and wife as tenants by the entireties with the right of survivorship as at common law, dated January 4, 1972 and of record in the aforesaid Clerk's Office in Deed Book 170, page 727, and to which said deed and plat reference is hereby made for a more accurate and particular description of the property herein conveyed.

The parties of the second part, by signing, sealing and accepting and recording this Deed, assume payment of the balance remaining due on a certain Deed of Trust from Karl Gaywood Wagner and Margaret D. Wagner, husband and wife, to Charles Smith, Jr. and Benj. W. Mears, Jr., Trustees, dated August 7, 1973 and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia, in Deed Book 176, page 272, on Tract I hereinabove described, in the original principal sum of \$27,000.00, on which there is an approximate unpaid balance of \$15,944.75, and said parties of the second part agree to pay said Deed of Trust and note and further agree to save harmless the said parties of the first part from the payment of any sum secured by said Deed of Trust.

This conveyance is made expressly subject to easements, conditions, restrictions and reservations contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the property herein conveyed which have not expired by the limitation of time contained therein or otherwise become ineffectual.

Together with all the privileges, appurtenances and rights of way to said real estate belonging or in anywise appertaining.

TO HAVE AND TO HOLD said real estate with its appurtenances aforesaid unto the said Gary W. Wagner and Julie L. Wagner,

husband and wife as tenants by the entireties with full right of survivorship as at common law.

WITNESS the following signatures and seals.

Karl Gaywood Wagner (SEAL)
Karl Gaywood Wagner

Margaret D. Wagner (SEAL)
Margaret D. Wagner

Gary W. Wagner (SEAL)
Gary W. Wagner

Julie L. Wagner (SEAL)
Julie L. Wagner

STATE OF New Jersey

City/County of Monmouth

to-wit:

The foregoing instrument was acknowledged before me this 18th day of November, 1983, by Karl Gaywood Wagner and Margaret D. Wagner, his wife.

My commission expires: August 31, 1987



Edward W. Dillon, Jr.
Notary Public
EDWARD W. DILLON, JR.
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Aug. 31, 1987

STATE OF VIRGINIA

County of Northampton, to-wit:

The foregoing instrument was acknowledged before me this December 1st day of November, 1983, by Gary W. Wagner and Julie L. Wagner, his wife.

My commission expires: June 18, 1985

Rene P. Wood
Notary Public

VIRGINIA:

In the Clerk's Office of the Circuit Court of the County of Northampton, on the 1st day of December, A. D., 1983. This deed from Karl Gaywood Wagner, et ux, to Gary W. Wagner, et ux, was, with the certificates of acknowledgment thereof thereto annexed, received by me in my said office this day and admitted to record at 10:15 o'clock, A. M.

Teste: Clyde E. Gibb, Clerk

By Virginia D. ... y. Clerk.

