

**MINUTES**

**ZONING BOARD OF ADJUSTMENT**

**BRUNSWICK COUNTY, N.C.**

**6:00 P.M., Thursday  
April 8, 2021**

**Commissioners Chambers  
David R. Sandifer Administration Building  
Brunswick County Government Center  
Old Ocean Highway East, Bolivia**

MEMBERS PRESENT

Robert Williamson, Chairman  
Marian Shiflet  
Mary Ann McCarthy  
Clayton Rivenbark  
Ron Medlin

MEMBERS ABSENT

None

STAFF PRESENT

Helen Bunch, Zoning Administrator  
Bryan Batton, Assistant County Attorney  
Miranda Garmenn, Planning Technician

OTHERS PRESENT

Scott Byrd  
Jackson Starling  
Holly Hewett Long  
Frank Buckley  
Phil Norris  
Randy Hardee  
Dayna Witt  
Tony Witt

I. CALL TO ORDER.

The Chairman called the meeting to order at 6:00 p.m.

II. ROLL CALL.

All members were present.

III. CONSIDERATION OF MINUTES OF THE MARCH 11, 2021 MEETING.

Mr. Rivenbark made a motion to accept the minutes of the March 11, 2021 meeting as written. The motion was seconded by Ms. Shiflet and unanimously carried.

IV. AGENDA AMENDMENTS.

There were none.

V. FUNCTIONS OF THE BOARD OF ADJUSTMENT.

Ms. McCarthy explained that the Board of Adjustment is a quasi-judicial Board assigned the function of acting between the Zoning Administrator or Planning Director, who administer the Unified Development Ordinance (UDO), and the courts, which would have the final say on any matter. The Board's duties are to hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator or Planning Director; to grant Special Use Permits and to grant Variances.

Ms. McCarthy said that the public hearing is not to solicit broad public opinion about how the Board should vote on a matter; rather, it is a time for submittal of relevant, factual evidence in the record by the applicants, proponents, opponents and staff. All parties involved must be affirmed or sworn in as required by the North Carolina General Statutes. The opposing parties have the right to cross examine witnesses and file documents into the record.

Ms. McCarthy stated that the Chairman will announce the case; the Zoning Administrator will submit into evidence the Staff Report; the applicant or person filing the application will present relevant evidence to the Board as it relates to the Approval Criteria outlined in Section 3.5.9.B. of the UDO; the opposition will have an opportunity to speak; and then the Zoning Administrator will provide recommended conditions based on the approval criteria and information provided during the public hearing. Once all parties have addressed the Board, all parties will have the opportunity for rebuttals and the Chairman will summarize all evidence presented. All parties will have the opportunity to comment on the summation given to the Board. Once the summary is accepted, the public hearing session will be over, and the Board will discuss the matter amongst themselves and vote to grant or deny the Special Use Permit and/or Variance.

Ms. McCarthy informed the audience that if anyone was not satisfied with the outcome of the Board's decision, they may file an appeal to Superior Court.

VI. SWEARING IN OF APPLICANT, WITNESS, AND OTHER INTERESTED PARTIES.

The Chairman swore in and or/ affirmed Helen Bunch, Scott Byrd, Jackson Starling, Holly Hewett Long, Frank Buckley, Phil Norris, Randy Hardee, Dayna Witt, and Tony Witt as to their testimony being truthful and relevant to the respective case.

VII. New Business.

- A) 21-06S: Special Use Permit  
Applicant: Scott and Adrienne Byrd  
Location: 910 Donaldsons Way, Shallotte, NC 28470  
Portion of Tax Parcel 2290004503  
Applicant requests a Special Use Permit for a “Class I Mining Operation” consistent with Section 5.2.3 and Section 5.3.7.G of the Brunswick County Unified Development Ordinance (UDO).

Ms. Bunch addressed the Board. Ms. Bunch read the Staff Report (attached). Ms. Bunch identified the subject property and surrounding properties on a visual map. She stated that the parcel is zoned Industrial General (IG).

East Coast Engineering Representative Jackson Starling and applicant Scott Byrd addressed the Board. Mr. Starling stated that both he and the applicant were going to go through the Findings of Fact questions for the Board to better understand their project.

Mr. Byrd asked whether the proposed use is in harmony with the area and not substantially injurious to the value of properties in the general vicinity. Mr. Starling stated that the property has existed as a mine and excavation site for fifty (50) years. He stated that the applicant would like to clean-up and reshape the existing ponds and lakes. He continued that a reclamation plan will be submitted as part of the mining application filed with the State for environmental concerns. Mr. Starling stated that Mr. Byrd would like to bring the site back into an aesthetic state. He added that the perimeter of the parcel will have a thirty-foot (30’) buffer with a 0.6 opacity. Mr. Starling stated there will be no crushing or demolition on the site. He added that the hours of operation will be 8:00 a.m. – 5:00 p.m. Monday – Friday.

Mr. Byrd asked whether the use is in conformance with all special requirements applicable to the use. Mr. Starling stated, in his professional opinion, that the use is in conformance with all special requirements applicable to the use. He added that they will continue to work with staff if any new conditions may arise.

Mr. Byrd asked whether the use, if developed as proposed, will not adversely affect the health and safety of the public. Mr. Starling responded that in addition to meeting the buffering requirements, the use is required to maintain a Class I Mining Permit from North Carolina Division of Energy, Mineral, and Land Resources from the Land Quality section. He added once the site is to the applicants liking, a reclamation plan will have to be submitted to close the permit. He stated that as part of the permitting process, the State will determine a bond amount for the site to come into compliance. If the applicant

does not meet the agreed upon requirements for reclaiming the land, the bond will be forfeited, and the State will take over and do the work for the site to come to standard. He added that a North Carolina Department of Transportation (NCDOT) driveway submittal will be required. NCDOT may or may not require the driveway to be updated. Mr. Starling stated a traffic impact study will need to be done because the project is a change of use. He continued there will be water trucks provided to maintain dust.

Mr. Byrd asked whether the use, if developed as proposed, will adequately address the twelve (12) review factors identified in Section 3.3.9.B of the Brunswick County Unified Development Ordinance. Mr. Starling responded that, in his opinion, all conditions are met and they will continue to work with staff if any new conditions arise.

Ms. Shiflet asked how long the process will take. Mr. Byrd responded he hopes to be done within twelve (12) months. He added the property was purchased as a retirement location and that he planned to bring the ponds to standard and build a home in the future.

Ms. McCarthy asked if sand will be taken off site. Mr. Byrd responded yes.

Resident, Holly Hewett Long, addressed the Board. Ms. Long stated her concern was for how the work will affect the cemetery near the site. Mr. Starling stated that the cemetery will be preserved and that it is not in an area where the applicant wants to reshape. Ms. Bunch stated that the cemetery is not part of either mining site.

Resident, Frank Buckley, addressed the Board. Mr. Buckley stated he owns adjoining parcel 229006401. He added he does not believe a thirty-foot (30') buffer currently exists. He continued that there is currently a bad flooding problem and that his concern is runoff. He added that the flood zone was raised a few years ago near the site. He continued that sediment may fill the ditches in. He added that vegetation currently on site had taken fifty (50) years to grow. Mr. Buckley also stated concerns for lighting and selling materials offsite. Ms. Bunch added that Mr. Buckley's property is adjacent to the next case.

Ms. Shiflet asked if his concerns would be addressed with the DEQ being involved. Mr. Buckley responded that he thinks the reshaping of ponds could make the problems worse.

Mr. Williamson asked Mr. Starling and Mr. Byrd to address Mr. Buckley's questions. Mr. Byrd stated no more than two (2) excavators and a few dump trucks will be running at one time. He continued that his pond drains into a large drainage ditch close to Mr. Buckley's property. He added that ditch is more than thirty feet (30') wide and ten feet (10') deep and runs east to west.

Mr. Byrd stated that he had spoken to another adjacent property owner about the flooding. He explained that the flooding problem is from “Lake Serene” where there is a beaver problem. He continued that he bushhogs and maintains the property boundary two (2) to three (3) times a week. Mr. Starling stated that once the Class I Mining permit is applied for, the site will be subject to requirements it is not currently subject to. He added that the site will only be improved per state requirements.

Mr. Williamson asked if water currently runs out of the pond into the drainage ditch. Mr. Byrd stated yes.

Mr. Williamson stated there is a thirty-foot (30’) buffer requirement. He asked the applicant if those setbacks can be met. Mr. Byrd responded yes. Ms. Bunch clarified that for the first case there is a thirty-foot (30’) buffer with 0.6 opacity adjacent to property zoned Neighborhood Commercial (NC). The second case will have a fifty-foot (50’) buffer with 0.8 opacity adjacent to property zoned R-6000.

Mr. Rivenbark asked for clarification on the slope of the pond. Mr. Starling responded that there is a maximum depth of thirty-five feet (35’).

Mr. Byrd stated there will be no mining after dark so outdoor lighting will not be necessary.

Mr. Williamson asked if flooding only occurs when there is heavy rain. Mr. Buckley responded yes.

Mr. Williamson asked Ms. Bunch to read the proposed conditions of approval from the Staff Report.

Mr. Williamson asked if there were any comments to the proposed conditions of approval.

With no comments, the Chairman summarized that Mr. Byrd would like to have a “Class I Mining Operation” which is allowed within the zoning district. Mr. Williamson added the hours of operation are 8:00 a.m. – 5:00 p.m. He continued that there will be no outdoor lighting present and the haul road will be watered to keep down dust. Mr. Williamson continued that the operation would last about twelve (12) months. He added the cemetery will not be disturbed by the operations. Mr. Williamsons stated there will be two (2) excavators and a few dump trucks running at one time. He added the required buffers will be maintained.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

**DECISION:** Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its meeting on April 8, 2021, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made.

1. A written application was submitted and complete in all respects.
2. The use, “Class I Mining Operation”, for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The applicant testified that the purpose of the mining is to make the banks and adjacent area of the former mining operation more aesthetically pleasing. Applying for a mining permit will require that the property meet today’s requirements for reclamation as opposed to the 50+ years ago when the property was initially mined and there were no requirements.
  - b. The applicants have proposed no exterior lighting for the project, which lessens the impact to the neighboring properties.
  - c. Project noise is anticipated for a short time (approximately 12 months) with hours of operation being from 8:00 a.m. – 5:00 p.m. As this is a Class I Mining Operation, the use of conveyor systems, screening machines, crushing, or other mechanical equipment cannot take place at this location.
3. The use, a “Class I Mining Operation”, for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. Section 5.2.3. of the Brunswick County Unified Development Ordinance lists Class I Mining Operation as a permissible use in the IG Zoning District if approved by the Board of Adjustment through the Special Use Permit process.
  - b. Section 5.3.7.G. of the UDO outlines the additional criteria for Class I Mining Operation if approved by the Board of Adjustment through the Special Use Permit process. The applicant has agreed to adhere to all the criteria and conditions.
  - c. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all the conditions outlined in the Staff Report are met.
4. The use, “Class I Mining Operation”, for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. No testimony or evidence was presented at the hearing that the proposed use will adversely affect the health and safety of the public.

- b. The Staff Report indicated that there will be regulation of the project by both Brunswick County and the State of North Carolina as mining permits from both entities are required.
  - c. Applicant stated that the haul road will be dust free via the use of a water truck.
  - d. Applicant indicated that he understands that the project driveway must first comply with NCDOT's driveway requirements to ensure the safety of the traveling public and material haulers.
5. The use, a "Class I Mining Operation", if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
- a. The Board concurs with the staff report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:
    - 1. **Circulation:** All access to the site will occur from Todd Road (SR 1147) via Donaldsons Way, a named 80-foot private access easement. Donaldsons Way will consist of a 20-foot private gravel road to the mining site. As a condition of approval, the applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
    - 2. **Parking and Loading:** There will be no scales or office on-site. As a result, no employee parking will be required. Loading of the trucks will occur on the site. Based upon the proposed length of the haul road, adequate room is available for truck staging.
    - 3. **Service Entrances and Areas:** All service vehicles will access the subject property from Todd Road (SR 1147), which is a state-maintained road and Donaldsons Way, a private road.
    - 4. **Lighting:** No outdoor lighting is proposed with this request. Any new outdoor lighting must meet the lighting requirements stated in Section 6.9. "Outdoor Lighting" of the UDO prior to installation.
    - 5. **Signs:** Any signage must meet the requirements of Article 8, Signs, of the UDO prior to installation. Signage is a separate permitting process.
    - 6. **Utilities:** Water is available to the site. Sewer is not available to the site. However, neither will be required for the proposed operation

7. **Open Space:** There are no separate open space requirements for this use.
8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
9. **Screening, Buffering and Landscaping:** Project boundary buffers are required. IG Zoning Non-Residential to NC Zoning will require a 30' deep buffer with 0.6 visual opacity. If the opacity requirement cannot be met with existing vegetation, plantings must be added to meet the opacity requirements.

The required 0.6 opacity buffer and planting alternatives are as follows:  
 30 feet deep; 3 canopy trees, 6 understory trees and 34 shrubs per 100 linear feet; or 30 feet deep; 3 canopy trees; 8 understory trees and 13 shrubs per 100 linear feet.

A compliance inspection must be conducted by the County prior to the commencement of mining activities.

10. **Effect on Adjoining Property:** There is no negative effect on adjoining property. The subject parcel is a former NCDOT borrow pit, with the beginnings of a lake. It is the owner's intent to do some mining to flatten the existing lake and make it more aesthetically pleasing. Hours that mining activities will occur have not been provided.
11. **Compatibility:** The proposed use is permissible in the IG Zoning District with Special Use Permit approval by the Board of Adjustment.
12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.
  - b. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.7.G. for Class I Mining Operations in the Unified Development Ordinance, specifically:
    1. Class I Mining Operations may not occupy more than 20 acres. **The site plan denotes a 18.40-acre parcel.**
    2. Soil or other unconsolidated material (i.e., sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site. However, no further on-site processing is permitted (i.e., use of conveyor systems; screening machines; crushing; or other mechanical equipment.) Mining activities where other on-site processing activities are conducted are considered Class II Mining Operations. **Applicant is aware that the use of conveyor systems,**

**screening machines, crushing, or other mechanical equipment may not take place at this location.**

3. The use of explosives is not permitted. **Applicant is aware that explosives cannot be used in the mining operation.**
4. All mining operations and their associated activities shall comply with the following standards when dewatering occurs:
  - i. Must be located a minimum of 100 feet from all property lines. **Applicant has stated that dewatering will not occur on this site.**
  - ii. The depth of each excavation pit shall not exceed 35 feet. **Applicant has indicated that there will not be dewatering, therefore this requirement is not applicable.**

*Commentary: The pumping of surface waters from one excavation pit to another excavation pit when located on the same parcel of land as the mining operation shall not be considered dewatering.*

5. Temporary sand and soil mining activities undertaken in conjunction with land development may be considered a Temporary Mining or Borrow Pit subject to compliance with Section 5.5.4 N/A

Mr. Rivenbark made a motion to grant the Special Use Permit if developed as proposed and subject to the conditions imposed below, as it:

- a) will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,
- b) will be in conformance with all special requirements applicable to the use,
- c) will not adversely affect the health and safety of the public, and
- d) will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance with the following conditions:
  1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
  2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use permit application and kept on file by the Brunswick County Planning Department.
  3. The applicant must legally subdivide Tax Parcel 2290004503 in the manner denoted on the site plan. The special use permit is to only be applicable to the mining site denoted on the site plan. The remaining parent parcel will not be a part of the Class I Mining Operation Special Use Permit.

4. The applicant must apply for and receive a State Mining Permit from the North Carolina Department of Environmental Quality (DEQ). Prior to the beginning of any excavation activities on the property, a copy of the State Mining Permit must be filed with the Brunswick County Planning Department.
5. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
6. Indicate for the record the mining hours of operation.
7. The applicant must ensure that the haul road remains dustless in nature during its use.
8. The depth of each excavation pit shall not exceed 35 feet if dewatering occurs.
9. Revise the western periphery property boundary to reflect a 0.6 opacity, 30' buffer.
10. The applicant must request a visual inspection of the site prior to the commencement of mining activities to ensure all requirements have been met.
11. If the specified conditions addressed in this special use permit are violated, the permit shall be revoked, and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another special use permit and receiving their approval can the use be again permitted.

The motion was seconded by Ms. Shiflet and unanimously carried. Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and as shown on the approved site plan. Vested rights are hereby established pursuant to Section 9.5. of the Brunswick County Unified Development Ordinance.

B) 21-07S: Special Use Permit  
 Applicant: Scott and Adrienne Byrd  
 Location: 937 Donaldsons Way, Shallotte, NC 28470  
 Portion of Tax Parcel 2290004503  
 Applicant requests a Special Use Permit for “Class I Mining Operation” consistent with Section 5.2.3 and Section 5.3.7.G of the Brunswick County Unified Development Ordinance (UDO).

Bryan Batton, County Attorney, addressed the Board. Mr. Batton asked Ms. Bunch if her testimony is substantially similar to previous Case 21-06S. Ms. Bunch responded yes. Mr. Batton asked Ms. Bunch if she offers her previous testimony and the new Staff Report into evidence. Ms. Bunch responded yes. Mr. Batton asked Ms. Bunch to state any differences.

Ms. Bunch stated the only change would be the buffer requirement. She continued there will be a fifty (50) foot buffer with 0.8 visual opacity where Industrial General (IG) zoning meets any residential zoning.

Mr. Batton asked Mr. Byrd and Mr. Starling if their testimony is similar to previous case 21-06S. They responded yes.

Mr. Batton asked if the same two (2) excavators would be used for this site. Mr. Byrd responded yes.

Mr. Williamson asked how many truckloads are expected to leave the site a day. Mr. Byrd responded ten (10) a day.

Ms. McCarthy asked if all elevations and flood zones have been calculated. Mr. Starling responded yes. He continued the Class I Mining Permit will regulate more than the previous mining activity.

Mr. Williamson asked Ms. Bunch to read the proposed conditions of approval from the Staff Report.

With no further comments, the Chairman summarized that the Staff Report is quite similar to Case 21-06S. He added that the buffer will be fifty feet (50') at certain points as opposed to the thirty-foot (30') buffer with a higher opacity. Mr. Williamson continued that there will be no lighting and only two (2) excavators with few dump trucks. He added ten (10) truckloads a day will leave site.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

**DECISION:** Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its meeting on April 8, 2021, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made.

1. A written application was submitted and complete in all respects.
2. The use, "Class I Mining Operation", for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The applicant testified that the purpose of the mining is to make the banks and adjacent area of the former mining operation more aesthetically pleasing. Applying for a mining permit will require that the property meet today's requirements for reclamation as opposed to the 50+ years ago when the property was initially mined and there were no requirements.

- b. The applicants have proposed no exterior lighting for the project, which lessens the impact to the neighboring properties.
  - c. Project noise is anticipated for a short time (approximately 12 months) with hours of operation being from 8:00 a.m. – 5:00 p.m. As this is a Class I Mining Operation, the use of conveyor systems, screening machines, crushing, or other mechanical equipment cannot take place at this location.
3. The use, a “Class I Mining Operation”, for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. Section 5.2.3. of the Brunswick County Unified Development Ordinance lists Class I Mining Operation as a permissible use in the IG Zoning District if approved by the Board of Adjustment through the Special Use Permit process.
  - b. Section 5.3.7.G. of the UDO outlines the additional criteria for Class I Mining Operation if approved by the Board of Adjustment through the Special Use Permit process. The applicant has agreed to adhere to all the criteria and conditions.
  - c. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all the conditions outlined in the Staff Report are met.
4. The use, “Class I Mining Operation”, for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. No testimony or evidence was presented at the hearing that the proposed use will adversely affect the health and safety of the public.
  - b. The Staff Report indicated that there will be regulation of the project by both Brunswick County and the State of North Carolina as mining permits from both entities are required.
  - c. Applicant stated that the haul road will be dust free via the use of a water truck.
  - d. Applicant indicated that he understands that the project driveway must first comply with NCDOT’s driveway requirements to ensure the safety of the traveling public and material haulers.
5. The use, a “Class I Mining Operation”, if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The Board concurs with the staff report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:

1. **Circulation:** All access to the site will occur from Todd Road (SR 1147) via Donaldsons Way, a named 80-foot private access easement. Donaldsons Way will consist of a 20-foot private gravel road to the mining site. As a condition of approval, the applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
2. **Parking and Loading:** There will be no scales or office on-site. As a result, no employee parking will be required. Loading of the trucks will occur on the site. Based upon the proposed length of the haul road, adequate room is available for truck staging.
3. **Service Entrances and Areas:** All service vehicles will access the subject property from Todd Road (SR 1147), which is a state-maintained road and Donaldsons Way, a private road.
4. **Lighting:** No outdoor lighting is proposed with this request. Any new outdoor lighting must meet the lighting requirements stated in Section 6.9. "Outdoor Lighting" of the UDO prior to installation.
5. **Signs:** Any signage must meet the requirements of Article 8, Signs, of the UDO prior to installation. Signage is a separate permitting process.
6. **Utilities:** Water is available to the site. Sewer is not available to the site. However, neither will be required for the proposed operation
7. **Open Space:** There are no separate open space requirements for this use.
8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
9. **Screening, Buffering and Landscaping:** Project boundary buffers are required. IG Zoning Non-Residential to RR Zoning will require a fifty-foot (50') deep buffer with 0.8 visual opacity. IG to R-7500 Zoning will also require a fifty-foot (50') deep buffer with 0.8 visual opacity, as well as IG to R-6000 and IG to SH-MF14. If the opacity requirement cannot be met with existing vegetation, plantings must be added to meet the opacity requirements.

The required 0.8 opacity buffer and planting alternatives are as follows:

50 feet deep; 5 canopy trees, 7 understory trees and 43 shrubs per 100 linear feet; or 50 feet deep; 4 canopy trees; 10 understory trees and 17 shrubs per 100 linear feet.

A compliance inspection must be conducted by the County prior to the commencement of mining activities.

10. **Effect on Adjoining Property:** There is no negative effect on adjoining property. The subject parcel is a former NCDOT borrow pit, with the beginnings of a lake. It is the owner's intent to do some mining to flatten the existing lake and make it more aesthetically pleasing. Hours that mining activities will occur have not been provided.
  11. **Compatibility:** The proposed use is permissible in the IG Zoning District with Special Use Permit approval by the Board of Adjustment.
  12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.
- b. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.7.G. for Class I Mining Operation in the Unified Development Ordinance, specifically:
1. Class I Mining Operations may not occupy more than 20 acres. **The site plan denotes a 19.70-acre parcel.**
  2. Soil or other unconsolidated material (i.e., sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site. However, no further on-site processing is permitted (i.e., use of conveyor systems; screening machines; crushing; or other mechanical equipment.) Mining activities where other on-site processing activities are conducted are considered Class II Mining Operations. **Applicant is aware that the use of conveyor systems, screening machines, crushing, or other mechanical equipment may not take place at this location.**
  3. The use of explosives is not permitted. **Applicant is aware that explosives cannot be used in the mining operation.**
  4. All mining operations and their associated activities shall comply with the following standards when dewatering occurs:
    - i. Must be located a minimum of 100 feet from all property lines. **Applicant has stated that dewatering will not occur on this site.**
    - ii. The depth of each excavation pit shall not exceed 35 feet. **Applicant has indicated that there will**

**not be dewatering, therefore this requirement is not applicable.**

*Commentary: The pumping of surface waters from one excavation pit to another excavation pit when located on the same parcel of land as the mining operation shall not be considered dewatering.*

5. Temporary sand and soil mining activities undertaken in conjunction with land development may be considered a Temporary Mining or Borrow Pit subject to compliance with Section 5.5.4 N/A

Mr. Rivenbark made a motion to grant the Special Use Permit if developed as proposed and subject to the conditions imposed below, as it:

- a) will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,
- b) will be in conformance with all special requirements applicable to the use,
- c) will not adversely affect the health and safety of the public, and
- d) will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance with the following conditions:
  1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
  2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use permit application and kept on file by the Brunswick County Planning Department.
  3. The applicant must legally subdivide Tax Parcel 2290004503 in the manner denoted on the site plan. The special use permit is to only be applicable to the mining site denoted on the site plan. The remaining parent parcel will not be a part of the Class I Mining Operation Special Use Permit.
  4. The applicant must apply for and receive a State Mining Permit from the North Carolina Department of Environmental Quality (DEQ). Prior to the beginning of any excavation activities on the property, a copy of the State Mining Permit must be filed with the Brunswick County Planning Department.
  5. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
  6. Indicate for the record the mining hours of operation.

7. The applicant must ensure that the haul road remains dustless in nature during its use.
8. The depth of each excavation pit shall not exceed 35 feet if dewatering occurs.
9. Revise the eastern periphery property boundary to reflect a 0.8 opacity, 50' buffer.
10. The applicant must request a visual inspection of the site prior to the commencement of mining activities to ensure all requirements have been met.
11. If the specified conditions addressed in this special use permit are violated, the permit shall be revoked, and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another special use permit and receiving their approval can the use be again permitted.

The motion was seconded by Ms. Shiflet and unanimously carried. Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and as shown on the approved site plan. Vested rights are hereby established pursuant to Section 9.5. of the Brunswick County Unified Development Ordinance.

C) 21-09S: Special Use Permit  
 Applicant: Randy Hardee  
 Location: 2699 Southport-Supply Road, Bolivia, NC 28422  
 Portion of Tax Parcel 18600015  
 Applicant requests a Special Use Permit for "Class I Mining Operation" consistent with Section 5.2.3 and Section 5.3.7.G of the Brunswick County Unified Development Ordinance (UDO).

Ms. Bunch addressed the Board. Ms. Bunch read the Staff Report (attached). Ms. Bunch identified the subject property and surrounding properties on a visual map. She stated that the parcel is zoned Rural Residential (RR).

Phil Norris with Norris and Tunstall Consulting Engineers addressed the Board. Mr. Norris stated all five (5) cases are similar in nature and his testimony will be the same for all. He added there are a lot of wetlands on the property and the applicant had a survey done to locate them. He continued there is a fifty-foot (50') buffer from any designated wetlands. Mr. Norris stated there is a county sewer force main that runs through the center of the property. He continued he has spoken to the county and they will remain forty feet (40') from the sewer line on each side. Mr. Norris stated there is a large demand for sand within the county. He added a NCDOT driveway permit is ready to be submitted as well as a State Mining Permit.

Mr. Williamson asked if all five (5) mining sites will be operating at the same time. Mr. Norris stated that one (1) mine will be operating at a time.

Ms. McCarthy asked for clarification on the overall size of the property. Mr. Norris responded well over one hundred (100) acres.

Mr. Williamson asked how many trucks will be leaving the site each day. Mr. Hardee responded it could be anywhere from 0-50 trucks a day. He continued that they sell to the public so it could vary each day.

Mr. Williamson asked if they will be able to transfer water from one mine to another. Mr. Hardee responded yes.

Ms. McCarthy asked the hours of operation. Mr. Hardee responded 8:00 a.m. – 5:00 p.m.

Resident Dayna Witt addressed the Board. Ms. Witt stated she is speaking in behalf of Mr. Hardee and his mine. She stated she believes it will continue to contribute to the building and infrastructure in the county and supply more dirt for contracts therefore bringing in more revenue and keep housing affordable. She continued that the location is more economical for the contractors as they don't have to travel as far.

Resident Tony Witt addressed the Board. Mr. Witt stated the location is suitable for contractors as well as residents. He stated that having a mine close to the area will keep costs down.

Mr. Williamson asked Ms. Bunch to read the proposed conditions of approval from the Staff Report.

With no further comments, the Chairman summarized that Mr. Hardee would like to operate a "Class I Mining Operation" which is allowed within the RR Zoning District. He stated the mine will have little effect on surrounding properties. He continued that there are wetlands on the property with a fifty-foot (50') buffer from the wetlands. He added the mine will be operated from 8:00 a.m. – 5:00 p.m. Mr. Williamson stated the number of trucks leaving the site each day will be dependent on the need.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

**DECISION:** Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its meeting on April 8, 2021, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made.

1. A written application was submitted and complete in all respects.
2. The use, "Class I Mining Operation", for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. Care has been taken to protect the wetlands as shown on the proposed site plans.
  - b. No expert testimony was provided, or report submitted by an appraiser regarding the value of the properties.
3. The use, "Class I Mining Operation", for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. Section 5.2.3. of the Brunswick County Unified Development Ordinance Lists a Class I Mining Operation as a permissible use in the RR Zoning District if approved by the Board of Adjustment through the Special Use Permit process.
  - b. Section 5.3.7.G. of the UDO outlines the additional criteria for Class I Mining Operation if approved by the Board of Adjustment through the Special Use Permit process.
  - c. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all the conditions outlined in the Staff Report are met.
  - d. The applicant testified that all standards required by the UDO would be met.
4. The use, "Class I Mining Operation", for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. No testimony or evidence was presented at the hearing that the proposed use will adversely affect the health and safety of the public.
  - b. The Staff Report indicated that there will be regulation of the project by both Brunswick County and the State of North Carolina as mining permits from both entities are required.
  - c. The applicant stated that the haul road will be dust free via the use of a water truck.
  - d. Applicant indicated that he understands that the project driveway must comply with NCDOT's driveway requirements to ensure the safety of the traveling public and sand haulers.
5. The use, a "Class I Mining Operation", if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance. This

is based on sworn testimony and evidence submitted during the hearing which shows the following:

a. The Board concurs with the staff report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:

1. **Circulation:** All access to the site will occur from Southport-Supply Road (NC 211). Access will consist of a 20' private compacted dirt road on a 30' access easement to the mining site. A 100' vehicle stacking area is proposed adjacent to Southport-Supply Road as one enters the site and approaches the locked cable used for site security purposes. As a condition of approval, the applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
2. **Parking and Loading:** There will be no scales or office on-site. As a result, no employee parking will be required. Loading of the trucks will occur on the site. Based upon the proposed length of the haul road, adequate room is available for truck staging.
3. **Service Entrances and Areas:** All service vehicles will access the subject property from Southport-Supply Road (NC 211), which is a state-maintained road.
4. **Lighting:** No outdoor lighting is proposed with this request. Any new outdoor lighting must meet the lighting requirements stated in Section 6.9. "Outdoor Lighting" of the UDO prior to installation.
5. **Signs:** Any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. Signage is a separate permitting process.
6. **Utilities:** While public water is available to this site as well as high pressure sewer, they will not be required for the proposed operation.
7. **Open Space:** There are no separate open space requirements for this use.
8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
9. **Screening, Buffering and Landscaping:** Project boundary buffers are required. RR Zoning Non-Residential to RR Zoning will require a 10' deep buffer with 0.2 visual opacity. RR to R-6000 and RR to OK-R20 will require the same. If the opacity requirements cannot be met with existing

vegetation, plantings must be added to meet the opacity requirements.

The required 0.2 opacity buffer and planting alternatives are as follows: 10 feet deep; 1 canopy tree, 1 understory tree and 7 shrubs per 100 linear feet; or 10 feet deep; 1 canopy tree; 2 understory trees and 3 shrubs per 100 linear feet.

A compliance inspection must be conducted by the County prior to the commencement of mining activities.

10. **Effect on Adjoining Property:** There is no adverse effect on adjoining property with adequate buffering proposed next to developed properties. Proposed mining hours are Monday through Friday from 7:30 a.m. – 5:00 p.m.
  11. **Compatibility:** The proposed use is permissible in the RR Zoning District with Special Use Permit approval by the Board of Adjustment.
  12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.
- b. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.7.G. for Class I Mining Operations in the Unified Development Ordinance, specifically:
1. Class I Mining Operations may not occupy more than 20 acres. **The site plan denotes a 20-acre parcel.**
  2. Soil or other unconsolidated material (i.e., sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site. However, no further on-site processing is permitted (i.e., use of conveyor systems; screening machines; crushing; or other mechanical equipment). Mining activities where other on-site processing activities are conducted are considered Class II Mining Operations. **Applicant is aware that the use of conveyor systems, screening machines, crushing, or other mechanical equipment may not take place at this location.**
  3. The use of explosives is not permitted. **Applicant is aware that explosives cannot be used in the mining operation.**
  4. All mining operations and their associated activities shall comply with the following standards when dewatering occurs:
    - i. Must be located a minimum of 100 feet from all property lines. **Applicant has stated that dewatering will not occur on this site.**
    - ii. The depth of each excavation pit shall not exceed 35 feet. **Applicant has indicated that there will not be dewatering, therefore this requirement is not applicable.**

*Commentary: The pumping of surface waters from one excavation pit to another excavation pit when located on the same parcel of land as the mining operation shall not be considered dewatering.*

5. Temporary sand and soil mining activities undertaken in conjunction with land development may be considered a Temporary Mining or Borrow Pit subject to compliance with Section 5.5.4 N/A

Ms. McCarthy made a motion to grant the Special Use Permit if developed as proposed and subject to the conditions imposed below, as it:

- a) will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,
- b) will be in conformance with all special requirements applicable to the use,
- c) will not adversely affect the health and safety of the public, and
- d) will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance with the following conditions:
  1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
  2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use permit application and kept on file by the Brunswick County Planning Department.
  3. The applicant must legally subdivide Tax Parcel 18600015 in the manner denoted on the site plan. The special use permit is to only be applicable to the mining site denoted on the site plan. The remaining parent parcel will not be a part of the Class I Mining Operation Special Use Permit. Specific metes and bounds information must be provided prior to the issuance of the permit, along with the exact acreage resulting from the specific metes and bounds. The established parcel must be less than 20 acres.
  4. The applicant must apply for and receive a State Mining Permit from the North Carolina Department of Environmental Quality (DEQ). Prior to the beginning of any excavation activities on the property, a copy of the State Mining Permit must be filed with the Brunswick County Planning Department.
  5. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.

6. The applicant must ensure that the haul road remains dustless in nature during its use.
7. The depth of each excavation pit shall not exceed 35 feet if dewatering occurs.
8. The applicant must request a visual inspection of the site prior to the commencement of mining activities to ensure all requirements have been met.
9. Applicant must reclaim the mine consistent with the approved State of North Carolina Mining Application Reclamation Plan.
10. If the specified conditions addressed in this special use permit are violated, the permit shall be revoked, and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another special use permit and receiving their approval can the use be again permitted.

The motion was seconded by Mr. Medlin and unanimously carried. Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and as shown on the approved site plan. Vested rights are hereby established pursuant to Section 9.5. of the Brunswick County Unified Development Ordinance.

- D) 21-10S: Special Use Permit  
 Applicant: Randy Hardee  
 Location: 2691 Southport-Supply Road, Bolivia, NC 28422  
 Portion of Tax Parcel 18600015  
 Applicant requests a Special Use Permit for “Class I Mining Operation” consistent with Section 5.2.3 and Section 5.3.7.G of the Brunswick County Unified Development Ordinance (UDO).

Bryan Batton, County Attorney, addressed the Board. Mr. Batton asked Ms. Bunch if her testimony is substantially similar to previous Case 21-09S. Ms. Bunch responded yes. Mr. Batton asked Ms. Bunch if she offers her previous testimony and the new Staff Report into evidence. Ms. Bunch responded yes. Mr. Batton asked Ms. Bunch to state any differences.

Ms. Bunch stated there will be no external lighting and utilities are not necessary. She continued that screening is required with a ten-foot (10’) buffer with 0.2 visual opacity on boundaries with RR zoning non-residential to RR zoning. She added vegetation requirements will need to be met and hours of operation will remain the same.

Mr. Batton asked Mr. Norris if his previous testimony remains the same. Mr. Norris responded yes.

With no further comments, the Chairman summarized that Mr. Hardee would like to operate a “Class I Mining Operation” which is allowed within the RR Zoning District. He stated the mine will have little effect on surrounding properties. He continued that there are wetlands on the property with a fifty-foot (50’) buffer from the wetlands. He added the mine will be operated from 8:00 a.m. – 5:00 p.m. Mr. Williamson stated the number of trucks leaving the site a day will be dependent on the need.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

**DECISION:** Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its meeting on April 8, 2021, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made.

1. A written application was submitted and complete in all respects.
2. The use, “Class I Mining Operation”, for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The applicant agreed to follow all criteria for Class I Mines outlined in the Staff Report.
  - b. No expert testimony was provided, or report submitted by an appraiser regarding the value of the properties.
3. The use, “Class I Mining Operation”, for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. Section 5.2.3. of the Brunswick County Unified Development Ordinance Lists a Class I Mining Operation as a permissible use in the RR Zoning District if approved by the Board of Adjustment through the Special Use Permit process.
  - b. Section 5.3.7.G. of the UDO outlines the additional criteria for Class I Mining Operation if approved by the Board of Adjustment through the Special Use Permit process.
  - c. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all the conditions outlined in the Staff Report are met.
  - d. Mr. Hardee testified that he is aware of all standards required by the UDO and they will be met.
4. The use, “Class I Mining Operation”, for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:

- a. No testimony or evidence was presented at the hearing that the proposed use will adversely affect the health and safety of the public.
  - b. The Staff Report indicated that there will be regulation of the project by both Brunswick County and the State of North Carolina as mining permits from both entities are required.
  - c. The applicant stated that the haul road will be dust free via the use of a water truck.
  - d. Applicant indicated that he will comply with all requirements for the Class I Mine.
5. The use, a “Class I Mining Operation”, if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
- a. The Board concurs with the staff report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:
    1. **Circulation:** All access to the site will occur from Southport-Supply Road (NC 211). Access will consist of a 20’ private compacted dirt road on a 30’ access easement to the mining site. A 100’ vehicle stacking area is proposed adjacent to Southport-Supply Road as one enters the site and approaches the locked cable used for site security purposes. As a condition of approval, the applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
    2. **Parking and Loading:** There will be no scales or office on-site. As a result, no employee parking will be required. Loading of the trucks will occur on the site. Based upon the proposed length of the haul road, adequate room is available for truck staging.
    3. **Service Entrances and Areas:** All service vehicles will access the subject property from Southport-Supply Road (NC 211), which is a state-maintained road.
    4. **Lighting:** No outdoor lighting is proposed with this request. Any new outdoor lighting must meet the lighting requirements stated in Section 6.9. “Outdoor Lighting” of the UDO prior to installation.
    5. **Signs:** Any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. Signage is a separate permitting process.

6. **Utilities:** While public water is available to this site as well as high pressure sewer, they will not be required for the proposed operation.
  7. **Open Space:** There are no separate open space requirements for this use.
  8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
  9. **Screening, Buffering and Landscaping:** Project boundary buffers are required. RR Zoning Non-Residential to RR Zoning will require a 10' deep buffer with 0.2 visual opacity. RR to R-6000 and RR to OK-R20 will require the same. If the opacity requirements cannot be met with existing vegetation, plantings must be added to meet the opacity requirements.  
The required 0.2 opacity buffer and planting alternatives are as follows: 10 feet deep; 1 canopy tree, 1 understory tree and 7 shrubs per 100 linear feet; or 10 feet deep; 1 canopy tree; 2 understory trees and 3 shrubs per 100 linear feet.  
A compliance inspection must be conducted by the County prior to the commencement of mining activities.
  10. **Effect on Adjoining Property:** There is no adverse effect on adjoining property with adequate buffering proposed next to developed properties. Proposed mining hours are Monday through Friday from 7:30 a.m. – 5:00 p.m.
  11. **Compatibility:** The proposed use is permissible in the RR Zoning District with Special Use Permit approval by the Board of Adjustment.
  12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.
- b. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.7.G. for Class I Mining Operations in the Unified Development Ordinance, specifically:
1. Class I Mining Operations may not occupy more than 20 acres. **The site plan denotes a 19.97-acre parcel.**
  2. Soil or other unconsolidated material (i.e., sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site. However, no further on-site processing is permitted (i.e., use of conveyor systems; screening machines; crushing; or other mechanical equipment). Mining activities where other on-site processing activities are conducted are considered Class II Mining Operations. **Applicant is aware that the use of conveyor systems, screening machines, crushing, or other mechanical equipment may not take place at this location.**

3. The use of explosives is not permitted. **Applicant is aware that explosives cannot be used in the mining operation.**
4. All mining operations and their associated activities shall comply with the following standards when dewatering occurs:
  - i. Must be located a minimum of 100 feet from all property lines. **Applicant has stated that dewatering will not occur on this site.**
  - ii. The depth of each excavation pit shall not exceed 35 feet. **Applicant has indicated that there will not be dewatering, therefore this requirement is not applicable.**

*Commentary: The pumping of surface waters from one excavation pit to another excavation pit when located on the same parcel of land as the mining operation shall not be considered dewatering.*
5. Temporary sand and soil mining activities undertaken in conjunction with land development may be considered a Temporary Mining or Borrow Pit subject to compliance with Section 5.5.4 N/A

Ms. Shiflet made a motion to grant the Special Use Permit if developed as proposed and subject to the conditions imposed below, as it:

- a) will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,
- b) will be in conformance with all special requirements applicable to the use,
- c) will not adversely affect the health and safety of the public, and
- d) will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance with the following conditions:
  1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
  2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use permit application and kept on file by the Brunswick County Planning Department.
  3. The applicant must legally subdivide Tax Parcel 18600015 in the manner denoted on the site plan. The special use permit is to only be applicable to the mining site denoted on the site plan. The remaining parent parcel will not be a part of the Class I Mining Operation Special Use Permit. Specific metes and bounds information must be provided prior to the issuance of the permit, along with the exact acreage

resulting from the specific metes and bounds. The established parcel must be less than 20 acres.

4. The applicant must apply for and receive a State Mining Permit from the North Carolina Department of Environmental Quality (DEQ). Prior to the beginning of any excavation activities on the property, a copy of the State Mining Permit must be filed with the Brunswick County Planning Department.
5. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
6. The applicant must ensure that the haul road remains dustless in nature during its use.
7. The depth of each excavation pit shall not exceed 35 feet if dewatering occurs.
8. The applicant must request a visual inspection of the site prior to the commencement of mining activities to ensure all requirements have been met.
9. Applicant must reclaim the mine consistent with the approved State of North Carolina Mining Application Reclamation Plan.
10. If the specified conditions addressed in this special use permit are violated, the permit shall be revoked, and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another special use permit and receiving their approval can the use be again permitted.

The motion was seconded by Mr. Rivenbark and unanimously carried. Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and as shown on the approved site plan. Vested rights are hereby established pursuant to Section 9.5. of the Brunswick County Unified Development Ordinance.

E) 21-11S: Special Use Permit  
Applicant: Randy Hardee  
Location: 2683 Southport-Supply Road, Bolivia, NC 28422  
Portion of Tax Parcel 18600015  
Applicant requests a Special Use Permit for “Class I Mining Operation” consistent with Section 5.2.3 and Section 5.3.7.G of the Brunswick County Unified Development Ordinance (UDO).

Bryan Batton, County Attorney, addressed the Board. Mr. Batton asked Ms. Bunch if her testimony is substantially similar to previous case 21-09S and 21-10S. Ms. Bunch responded yes. Mr. Batton asked Ms. Bunch if she offers

her previous testimony and the new Staff Report into evidence. Ms. Bunch responded yes. Mr. Batton asked Ms. Bunch to state any differences.

Ms. Bunch stated there are no differences.

Mr. Batton asked Mr. Norris if his previous testimony remains the same. Mr. Norris responded yes.

With no further comments, the Chairman summarized that Mr. Hardee would like to operate a “Class I Mining Operation” which is allowed within the RR Zoning District. He stated the mine will have little effect on surrounding properties. He continued that there are wetlands on the property with a fifty-foot (50’) buffer from the wetlands. He added the mine will be operated from 8:00 a.m. – 5:00 p.m. Mr. Williamson stated the number of trucks leaving the site a day will be dependent on the need.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

**DECISION:** Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its meeting on April 8, 2021, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made.

1. A written application was submitted and complete in all respects.
2. The use, “Class I Mining Operation”, for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The applicant has agreed to follow all criteria for Class I Mines outlined in the Staff Report.
  - b. No expert testimony was provided, or report submitted by an appraiser regarding the value of the properties.
3. The use, “Class I Mining Operation”, for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. Section 5.2.3. of the Brunswick County Unified Development Ordinance Lists a Class I Mining Operation as a permissible use in the RR Zoning District if approved by the Board of Adjustment through the Special Use Permit process.
  - b. Section 5.3.7.G. of the UDO outlines the additional criteria for Class I Mining Operation if approved by the Board of Adjustment through the Special Use Permit process.
  - c. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and

conditions of the ordinance, if all the conditions outlined in the Staff Report are met.

- d. Mr. Hardee testified that he is aware of all standards required by the UDO and they will be met.
4. The use, “Class I Mining Operation”, for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
    - a. No testimony or evidence was presented at the hearing that the proposed use will adversely affect the health and safety of the public.
    - b. The Staff Report indicated that there will be regulation of the project by both Brunswick County and the State of North Carolina as mining permits from both entities are required.
    - c. The applicant stated that the haul road will be dust free via the use of a water truck.
    - d. Applicant indicated that he would comply with all requirements for the Class I Mine.
  5. The use, a “Class I Mining Operation”, if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
    - a. The Board concurs with the staff report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:
      1. **Circulation:** All access to the site will occur from Southport-Supply Road (NC 211). Access will consist of a 20’ private compacted dirt road on a 30’ access easement to the mining site. A 100’ vehicle stacking area is proposed adjacent to Southport-Supply Road as one enters the site and approaches the locked cable used for site security purposes. As a condition of approval, the applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
      2. **Parking and Loading:** There will be no scales or office on-site. As a result, no employee parking will be required. Loading of the trucks will occur on the site. Based upon the proposed length of the haul road, adequate room is available for truck staging.

3. **Service Entrances and Areas:** All service vehicles will access the subject property from Southport-Supply Road (NC 211), which is a state-maintained road.
  4. **Lighting:** No outdoor lighting is proposed with this request. Any new outdoor lighting must meet the lighting requirements stated in Section 6.9. "Outdoor Lighting" of the UDO prior to installation.
  5. **Signs:** Any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. Signage is a separate permitting process.
  6. **Utilities:** While public water is available to this site as well as high pressure sewer, they will not be required for the proposed operation.
  7. **Open Space:** There are no separate open space requirements for this use.
  8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
  9. **Screening, Buffering and Landscaping:** Project boundary buffers are required. RR Zoning Non-Residential to RR Zoning will require a 10' deep buffer with 0.2 visual opacity. RR to R-6000, R-7500 and RR to OK-R20 will require the same. If the opacity requirements cannot be met with existing vegetation, plantings must be added to meet the opacity requirements.  
The required 0.2 opacity buffer and planting alternatives are as follows: 10 feet deep; 1 canopy tree, 1 understory tree and 7 shrubs per 100 linear feet; or 10 feet deep; 1 canopy tree; 2 understory trees and 3 shrubs per 100 linear feet.  
A compliance inspection must be conducted by the County prior to the commencement of mining activities.
  10. **Effect on Adjoining Property:** There is no adverse effect on adjoining property with adequate buffering proposed next to developed properties. Proposed mining hours are Monday through Friday from 7:30 a.m. – 5:00 p.m.
  11. **Compatibility:** The proposed use is permissible in the RR Zoning District with Special Use Permit approval by the Board of Adjustment.
  12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.
- b. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.7.G. for Class I Mining Operation in the Unified Development Ordinance, specifically:
1. Class I Mining Operations may not occupy more than 20 acres. **The site plan denotes a 20-acre parcel.**

2. Soil or other unconsolidated material (i.e., sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site. However, no further on-site processing is permitted (i.e., use of conveyor systems; screening machines; crushing; or other mechanical equipment). Mining activities where other on-site processing activities are conducted are considered Class II Mining Operations. **Applicant is aware that the use of conveyor systems, screening machines, crushing, or other mechanical equipment may not take place at this location.**
3. The use of explosives is not permitted. **Applicant is aware that explosives cannot be used in the mining operation.**
4. All mining operations and their associated activities shall comply with the following standards when dewatering occurs:
  - i. Must be located a minimum of 100 feet from all property lines. **Applicant has stated that dewatering will not occur on this site.**
  - ii. The depth of each excavation pit shall not exceed 35 feet. **Applicant has indicated that there will not be dewatering, therefore this requirement is not applicable.**

*Commentary: The pumping of surface waters from one excavation pit to another excavation pit when located on the same parcel of land as the mining operation shall not be considered dewatering.*
5. Temporary sand and soil mining activities undertaken in conjunction with land development may be considered a Temporary Mining or Borrow Pit subject to compliance with Section 5.5.4 N/A

Ms. McCarthy made a motion to grant the Special Use Permit if developed as proposed and subject to the conditions imposed below, as it:

- a) will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,
- b) will be in conformance with all special requirements applicable to the use,
- c) will not adversely affect the health and safety of the public, and
- d) will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance with the following conditions:
  1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).

2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use permit application and kept on file by the Brunswick County Planning Department.
3. The applicant must legally subdivide Tax Parcel 18600015 in the manner denoted on the site plan. The special use permit is to only be applicable to the mining site denoted on the site plan. The remaining parent parcel will not be a part of the Class I Mining Operation Special Use Permit. Specific metes and bounds information must be provided prior to the issuance of the permit, along with the exact acreage resulting from the specific metes and bounds. The established parcel must be less than 20 acres.
4. The applicant must apply for and receive a State Mining Permit from the North Carolina Department of Environmental Quality (DEQ). Prior to the beginning of any excavation activities on the property, a copy of the State Mining Permit must be filed with the Brunswick County Planning Department.
5. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
6. The applicant must ensure that the haul road remains dustless in nature during its use.
7. The depth of each excavation pit shall not exceed 35 feet if dewatering occurs.
8. The applicant must request a visual inspection of the site prior to the commencement of mining activities to ensure all requirements have been met.
9. Applicant must reclaim the mine consistent with the approved State of North Carolina Mining Application Reclamation Plan.
10. If the specified conditions addressed in this special use permit are violated, the permit shall be revoked, and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another special use permit and receiving their approval can the use be again permitted.

The motion was seconded by Mr. Medlin and unanimously carried. Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and as shown on the approved site plan. Vested rights are hereby established pursuant to Section 9.5. of the Brunswick County Unified Development Ordinance.

- F) 21-12S: Special Use Permit  
Applicant: Randy Hardee  
Location: 2677 Southport-Supply Road, Bolivia, NC 28422  
Portion of Tax Parcel 18600015  
Applicant requests a Special Use Permit for “Class I Mining Operation” consistent with Section 5.2.3 and Section 5.3.7.G of the Brunswick County Unified Development Ordinance (UDO).

Bryan Batton, County Attorney, addressed the Board. Mr. Batton asked Ms. Bunch if her testimony is substantially similar to previous cases 21-09S, 21-10S, and 21-11S. Ms. Bunch responded yes. Mr. Batton asked Ms. Bunch if she offers her previous testimony and the new Staff Report into evidence. Ms. Bunch responded yes. Mr. Batton asked Ms. Bunch to state any differences.

Ms. Bunch stated the parcel is a 19.97-acre parcel.

Mr. Batton asked Mr. Norris if his previous testimony remains the same. Mr. Norris responded yes.

With no further comments, the Chairman summarized that Mr. Hardee would like to operate a “Class I Mining Operation” which is allowed within the RR Zoning District. He stated the mine will have little effect on surrounding properties. He continued that there are wetlands on the property with a fifty-foot (50’) buffer from the wetlands. He added the mine will be operated from 8:00 a.m. – 5:00 p.m. Mr. Williamson stated the number of trucks leaving the site a day will be dependent on the need.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

**DECISION:** Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its meeting on April 8, 2021, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made.

1. A written application was submitted and complete in all respects.
2. The use, “Class I Mining Operation”, for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The applicant has agreed to follow all criteria for Class I Mines outlined in the Staff Report.
  - b. No expert testimony was provided, or report submitted by an appraiser regarding the value of the properties.

3. The use, “Class I Mining Operation”, for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. Section 5.2.3. of the Brunswick County Unified Development Ordinance Lists a Class I Mining Operation as a permissible use in the RR Zoning District if approved by the Board of Adjustment through the Special Use Permit process.
  - b. Section 5.3.7.G. of the UDO outlines the additional criteria for Class I Mining Operation if approved by the Board of Adjustment through the Special Use Permit process.
  - c. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all the conditions outlined in the Staff Report are met.
  - d. Mr. Hardee testified that he is aware of all standards required by the UDO and they will be met.
4. The use, “Class I Mining Operation”, for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. No testimony or evidence was presented at the hearing that the proposed use will adversely affect the health and safety of the public.
  - b. The Staff Report indicated that there will be regulation of the project by both Brunswick County and the State of North Carolina as mining permits from both entities are required.
  - c. The applicant stated that the haul road will be dust free via the use of a water truck.
  - d. Applicant indicated that he will comply with all requirements for the Class I Mine.
5. The use, a “Class I Mining Operation”, if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The Board concurs with the staff report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:
    1. **Circulation:** All access to the site will occur from Southport-Supply Road (NC 211). Access will consist of a 20’ private compacted dirt road on a 30’ access easement to the mining site. A 100’ vehicle stacking area is proposed adjacent to Southport-Supply Road as one enters the site and approaches the locked cable used for site security purposes. As a condition of approval, the applicant must notify the

North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.

2. **Parking and Loading:** There will be no scales or office on-site. As a result, no employee parking will be required. Loading of the trucks will occur on the site. Based upon the proposed length of the haul road, adequate room is available for truck staging.
3. **Service Entrances and Areas:** All service vehicles will access the subject property from Southport-Supply Road (NC 211), which is a state-maintained road.
4. **Lighting:** No outdoor lighting is proposed with this request. Any new outdoor lighting must meet the lighting requirements stated in Section 6.9. "Outdoor Lighting" of the UDO prior to installation.
5. **Signs:** Any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. Signage is a separate permitting process.
6. **Utilities:** While public water is available to this site as well as high pressure sewer, they will not be required for the proposed operation.
7. **Open Space:** There are no separate open space requirements for this use.
8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
9. **Screening, Buffering and Landscaping:** Project boundary buffers are required. RR Zoning Non-Residential to RR Zoning will require a 10' deep buffer with 0.2 visual opacity. RR to R-6000 and RR to OK-R20 will require the same. If the opacity requirements cannot be met with existing vegetation, plantings must be added to meet the opacity requirements.  
The required 0.2 opacity buffer and planting alternatives are as follows: 10 feet deep; 1 canopy tree, 1 understory tree and 7 shrubs per 100 linear feet; or 10 feet deep; 1 canopy tree; 2 understory trees and 3 shrubs per 100 linear feet.  
A compliance inspection must be conducted by the County prior to the commencement of mining activities.
10. **Effect on Adjoining Property:** There is no adverse effect on adjoining property with adequate buffering proposed next to developed properties. Proposed mining hours are Monday through Friday from 7:30 a.m. – 5:00 p.m.

11. **Compatibility:** The proposed use is permissible in the RR Zoning District with Special Use Permit approval by the Board of Adjustment.
  12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.
- b. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.7.G. for Class I Mining Operation in the Unified Development Ordinance, specifically:
1. Class I Mining Operations may not occupy more than 20 acres. **The site plan denotes a 19.97-acre parcel.**
  2. Soil or other unconsolidated material (i.e., sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site. However, no further on-site processing is permitted (i.e., use of conveyor systems; screening machines; crushing; or other mechanical equipment). Mining activities where other on-site processing activities are conducted are considered Class II Mining Operations. **Applicant is aware that the use of conveyor systems, screening machines, crushing, or other mechanical equipment may not take place at this location.**
  3. The use of explosives is not permitted. **Applicant is aware that explosives cannot be used in the mining operation.**
  4. All mining operations and their associated activities shall comply with the following standards when dewatering occurs:
    - i. Must be located a minimum of 100 feet from all property lines. **Applicant has stated that dewatering will not occur on this site.**
    - ii. The depth of each excavation pit shall not exceed 35 feet. **Applicant has indicated that there will not be dewatering, therefore this requirement is not applicable.**

*Commentary: The pumping of surface waters from one excavation pit to another excavation pit when located on the same parcel of land as the mining operation shall not be considered dewatering.*
  5. Temporary sand and soil mining activities undertaken in conjunction with land development may be considered a Temporary Mining or Borrow Pit subject to compliance with Section 5.5.4 N/A

Ms. Shiflet made a motion to grant the Special Use Permit if developed as proposed and subject to the conditions imposed below, as it:

- a) will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,
- b) will be in conformance with all special requirements applicable to the use,
- c) will not adversely affect the health and safety of the public, and
- d) will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance with the following conditions:
  1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
  2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use permit application and kept on file by the Brunswick County Planning Department.
  3. The applicant must legally subdivide Tax Parcel 18600015 in the manner denoted on the site plan. The special use permit is to only be applicable to the mining site denoted on the site plan. The remaining parent parcel will not be a part of the Class I Mining Operation Special Use Permit. Specific metes and bounds information must be provided prior to the issuance of the permit, along with the exact acreage resulting from the specific metes and bounds. The established parcel must be less than 20 acres.
  4. The applicant must apply for and receive a State Mining Permit from the North Carolina Department of Environmental Quality (DEQ). Prior to the beginning of any excavation activities on the property, a copy of the State Mining Permit must be filed with the Brunswick County Planning Department.
  5. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
  6. The applicant must ensure that the haul road remains dustless in nature during its use.
  7. The depth of each excavation pit shall not exceed 35 feet if dewatering occurs.
  8. The applicant must request a visual inspection of the site prior to the commencement of mining activities to ensure all requirements have been met.
  9. Applicant must reclaim the mine consistent with the approved State of North Carolina Mining Application Reclamation Plan.

10. If the specified conditions addressed in this special use permit are violated, the permit shall be revoked, and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another special use permit and receiving their approval can the use be again permitted.

The motion was seconded by Mr. Rivenbark and unanimously carried. Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and as shown on the approved site plan. Vested rights are hereby established pursuant to Section 9.5. of the Brunswick County Unified Development Ordinance.

- G) 21-13S: Special Use Permit  
Applicant: Randy Hardee  
Location: 2671 Southport-Supply Road, Bolivia, NC 28422  
Portion of Tax Parcel 18600015  
Applicant requests a Special Use Permit for “Class I Mining Operation” consistent with Section 5.2.3 and Section 5.3.7.G of the Brunswick County Unified Development Ordinance (UDO).

Bryan Batton, County Attorney, addressed the Board. Mr. Batton asked Ms. Bunch if her testimony is substantially similar to previous Cases 21-09S, 21-10S, 21-11S, and 21-12S. Ms. Bunch responded yes. Mr. Batton asked Ms. Bunch if she offers her previous testimony and the new Staff Report into evidence. Ms. Bunch responded yes. Mr. Batton asked Ms. Bunch to state any differences.

Ms. Bunch stated this is a 19.88-acre tract.

Mr. Batton asked Mr. Norris if his previous testimony remains the same. Mr. Norris responded yes.

Ms. Shiflet asked for clarification on the timing of excavating each mine. Mr. Norris responded that it depends on the rate of the economy.

With no further comments, the Chairman summarized that Mr. Hardee would like to operate a “Class I Mining Operation” which is allowed within the RR Zoning District. He stated the mine will have little effect on surrounding properties. He continued that there are wetlands on the property with a fifty-foot (50’) buffer from the wetlands. He added the mine will be operated from 8:00 a.m. – 5:00 p.m. Mr. Williamson stated the number of trucks leaving the site a day will be dependent on the need.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

**DECISION:** Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its meeting on April 8, 2021, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made.

1. A written application was submitted and complete in all respects.
2. The use, “Class I Mining Operation”, for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The applicant has agreed to follow all criteria for Class I Mines outlined in the Staff Report.
  - b. No expert testimony was provided, or report submitted by an appraiser regarding the value of the properties.
3. The use, “Class I Mining Operation”, for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. Section 5.2.3. of the Brunswick County Unified Development Ordinance Lists a Class I Mining Operation as a permissible use in the RR Zoning District if approved by the Board of Adjustment through the Special Use Permit process.
  - b. Section 5.3.7.G. of the UDO outlines the additional criteria for Class I Mining Operation if approved by the Board of Adjustment through the Special Use Permit process.
  - c. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all the conditions outlined in the Staff Report are met.
  - d. Mr. Hardee testified that he is aware of all standards required by the UDO and they will be met.
4. The use, “Class I Mining Operation”, for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. No testimony or evidence was presented at the hearing that the proposed use will adversely affect the health and safety of the public.
  - b. The Staff Report indicated that there will be regulation of the project by both Brunswick County and the State of North Carolina as mining permits from both entities are required.
  - c. The applicant stated that the haul road will be dust free via the use of a water truck.
  - d. Applicant indicated that he will comply with all requirements for the Class I Mine.

5. The use, a “Class I Mining Operation”, if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The Board concurs with the staff report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:
    1. **Circulation:** All access to the site will occur from Southport-Supply Road (NC 211). Access will consist of a 20’ private compacted dirt road on a 30’ access easement to the mining site. A 100’ vehicle stacking area is proposed adjacent to Southport-Supply Road as one enters the site and approaches the locked cable used for site security purposes. As a condition of approval, the applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
    2. **Parking and Loading:** There will be no scales or office on-site. As a result, no employee parking will be required. Loading of the trucks will occur on the site. Based upon the proposed length of the haul road, adequate room is available for truck staging.
    3. **Service Entrances and Areas:** All service vehicles will access the subject property from Southport-Supply Road (NC 211), which is a state-maintained road.
    4. **Lighting:** No outdoor lighting is proposed with this request. Any new outdoor lighting must meet the lighting requirements stated in Section 6.9. “Outdoor Lighting” of the UDO prior to installation.
    5. **Signs:** Any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. Signage is a separate permitting process.
    6. **Utilities:** While public water is available to this site as well as high pressure sewer, they will not be required for the proposed operation.
    7. **Open Space:** There are no separate open space requirements for this use.
    8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
    9. **Screening, Buffering and Landscaping:** Project boundary buffers are required. RR Zoning Non-Residential to RR

Zoning will require a 10' deep buffer with 0.2 visual opacity. RR to R-6000 and RR to OK-R20 will require the same. If the opacity requirements cannot be met with existing vegetation, plantings must be added to meet the opacity requirements.

The required 0.2 opacity buffer and planting alternatives are as follows: 10 feet deep; 1 canopy tree, 1 understory tree and 7 shrubs per 100 linear feet; or 10 feet deep; 1 canopy tree; 2 understory trees and 3 shrubs per 100 linear feet.

A compliance inspection must be conducted by the County prior to the commencement of mining activities.

10. **Effect on Adjoining Property:** There is no adverse effect on adjoining property with adequate buffering proposed next to developed properties. Proposed mining hours are Monday through Friday from 7:30 a.m. – 5:00 p.m.
  11. **Compatibility:** The proposed use is permissible in the RR Zoning District with Special Use Permit approval by the Board of Adjustment.
  12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.
- b. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.7.G. for Class I Mining Operation in the Unified Development Ordinance, specifically:
1. Class I Mining Operations may not occupy more than 20 acres. **The site plan denotes a 19.88-acre parcel.**
  2. Soil or other unconsolidated material (i.e., sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site. However, no further on-site processing is permitted (i.e., use of conveyor systems; screening machines; crushing; or other mechanical equipment). Mining activities where other on-site processing activities are conducted are considered Class II Mining Operations. **Applicant is aware that the use of conveyor systems, screening machines, crushing, or other mechanical equipment may not take place at this location.**
  3. The use of explosives is not permitted. **Applicant is aware that explosives cannot be used in the mining operation.**
  4. All mining operations and their associated activities shall comply with the following standards when dewatering occurs:
    - i. Must be located a minimum of 100 feet from all property lines. **Applicant has stated that dewatering will not occur on this site.**
    - ii. The depth of each excavation pit shall not exceed 35 feet. **Applicant has indicated that there will**

**not be dewatering, therefore this requirement is not applicable.**

*Commentary: The pumping of surface waters from one excavation pit to another excavation pit when located on the same parcel of land as the mining operation shall not be considered dewatering.*

5. Temporary sand and soil mining activities undertaken in conjunction with land development may be considered a Temporary Mining or Borrow Pit subject to compliance with Section 5.5.4 N/A

Mr. Rivenbark made a motion to grant the Special Use Permit if developed as proposed and subject to the conditions imposed below, as it:

- a) will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,
- b) will be in conformance with all special requirements applicable to the use,
- c) will not adversely affect the health and safety of the public, and
- d) will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance with the following conditions:
  1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
  2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use permit application and kept on file by the Brunswick County Planning Department.
  3. The applicant must legally subdivide Tax Parcel 18600015 in the manner denoted on the site plan. The special use permit is to only be applicable to the mining site denoted on the site plan. The remaining parent parcel will not be a part of the Class I Mining Operation Special Use Permit. Specific metes and bounds information must be provided prior to the issuance of the permit, along with the exact acreage resulting from the specific metes and bounds. The established parcel must be less than 20 acres.
  4. The applicant must apply for and receive a State Mining Permit from the North Carolina Department of Environmental Quality (DEQ). Prior to the beginning of any excavation activities on the property, a copy of the State Mining Permit must be filed with the Brunswick County Planning Department.
  5. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from

- NCDOT stating whether site access improvements are warranted.  
Required improvements must be made prior to final zoning approval.
6. The applicant must ensure that the haul road remains dustless in nature during its use.
  7. The depth of each excavation pit shall not exceed 35 feet if dewatering occurs.
  8. The applicant must request a visual inspection of the site prior to the commencement of mining activities to ensure all requirements have been met.
  9. Applicant must reclaim the mine consistent with the approved State of North Carolina Mining Application Reclamation Plan.
  10. If the specified conditions addressed in this special use permit are violated, the permit shall be revoked, and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another special use permit and receiving their approval can the use be again permitted.

The motion was seconded by Ms. McCarthy and unanimously carried.  
Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and as shown on the approved site plan.  
Vested rights are hereby established pursuant to Section 9.5. of the Brunswick County Unified Development Ordinance.

VIII. Staff Report.

Ms. Bunch indicated there will be a May 13, 2021 meeting. Ms. Bunch stated new Board of Adjustment member Jim Goodman is present.

IX. Adjournment.

With no further business, Mr. Medlin made a motion to adjourn. The motion was seconded by Mr. Rivenbark and unanimously carried.