

# Sumter City-County Board of Appeals

April 13, 2011

## BOA-11-05, Joel L. Singletary – Frierson Rd. Mining (County)

### I. THE REQUEST

<b>Applicant:</b>	Joel L. Singletary
<b>Status of the Applicant:</b>	Appellant
<b>Request:</b>	Appeal of the Zoning Administrator's approval of a conditional use application to operate a mining site
<b>Location:</b>	Frierson Rd. & Stamey Livestock Rd.
<b>Present Use/Zoning:</b>	Vacant/AC
<b>Tax Map Reference:</b>	153-00-01-006Pt.
<b>Adjacent Property Land Use and Zoning:</b>	North – Agricultural & Res. (AC) South – Shaw AFB & Agricultural (AC) East – Agricultural & Res. (LC, AC) West – Shaw AFB

### II. BACKGROUND

Mr. Bill Carter submitted a conditional use application (CU 11-04) on January 28, 2011 for a mining operation on a 4.99 acre tract of land zoned Agricultural Conservation (AC) located at the corner of Frierson Rd. and Stamey Livestock Road. Mr. Carter is the owner of the subject property, identified as a portion of tax map 153-00-01-006 and zoned Agricultural Conservation.

This type of Mining Operation is defined under the Standard Industrial Classification 14--Mining & Quarrying of non metallic minerals. The use requires conditional use approval by Planning Staff pursuant to Section 3.n.3.b of the *Sumter County Zoning and Development Standards Ordinance* (“**Zoning Ordinance**”).

After a detailed review, Staff approved CU-11-04, and its companion Site Plan application (Exhibit 3) on February 16, 2011, subject to specific conditions outlined in the Staff approval letter dated February 16, 2011 and attached as Exhibit 2.

It is Staff's finding that the application meets the relevant criteria for conditional use requests found in the Zoning Ordinance including Article 3, Exhibit 5 page 93; Article 3, Section 3.n.3.b and Article 5, Section B: Specific Conditions and Standards for Conditional Uses and Special Exceptions of the Sumter County Zoning Ordinance.

Together with the conditions included in the February 16, 2011 letter, we find the following based on the specific review criteria of Article 5 (Staff review in bold):

a. That ingress and egress to the proposed use be provided with reference to automotive and pedestrian safety and convenience, traffic generation flow and control, and access in case of fire or catastrophe, such as not to be detrimental to existing or anticipated uses, either adjacent to or in the vicinity of the proposed use;

**The property is located at the intersection of Frierson Rd (S-91) with a 2009 ADT of 5300 VPD and Stamey Livestock Rd. (S-875) with a 2009 ADT of 2800 VPD. Frierson Rd is classified as a collector and Stamey Livestock Rd. as a minor arterial. The SUATS Long Range Transportation Plan lists Frierson Rd for widening from US 521 to Patrol Rd as a future roadway improvement but project is unfunded at this time. Both roads are currently operating at a LOS of A. According to Mr. Carter the mining operation will bring in approximately 25 to 50 truck trips a day to the site. In order for the service level on these roadways to change to level B, it would require up to 7400 VPD. This will require a significant increase in the trips made to this site a day and with this being a minor mining site, staff does not see the level of service changing with this scale of project. Truck travel routes will be from Frierson up to Hwy 521 or from Frierson to Stamey Livestock Rd. to Hwy 378.**

**Operation of a mining facility such as this requires access to a collector or arterial road classification. Frierson road meets this requirement as it is classified as a collector. In addition, the property owner, Mr. Carter, has received DOT review and has been issued an encroachment permit for this use (Exhibit 7). According to Robbie Rickard, Fire Inspector, emergency access to this site is acceptable. Frierson Road in this vicinity operates at a level of Service "A", the highest level of service categorized as free flow conditions, low volume, and no delays.**

**We find no evidence that this use will be detrimental to existing uses adjacent to or in the vicinity of the project.**

b. The off-street parking and loading areas, where required or proposed by the applicant, be designed and provided in harmony with adjacent properties;

**No off street parking or loading areas proposed on site plan and not applicable in this case. Site Plan does show a 25 foot wide staging area around the perimeter of the mining site. The use is located over 350 feet from adjacent parcels; parking will have no impact of properties in the vicinity.**

c. That refuse and service areas be adequately screened so as not to be visible from adjacent property or public rights-of-way and shall be located in such a way as not to create a nuisance to adjacent properties;

**The use is located over 350 feet from adjacent parcels; the location of refuse areas will have no impact of properties in the vicinity.**

d. That screening, buffering or separation of any nuisance or hazardous feature be provided with reference to type, dimensions and character, and be fully and clearly represented on the submitted plans, to protect adjacent properties;

**Natural buffer areas are noted on the site plan. The use is located over 350 feet from adjacent parcels. The mining operation also submitted a Zoning Ordinance required *Comprehensive Reclamation and Reuse Plan (Exhibit 5)* for use of the property after mining has been exhausted.**

e. That proposed signs and exterior lighting be provided so as not to create glare, impair traffic safety, or be incompatible with adjacent properties;

**Neither signs nor exterior lighting have been proposed on site at this time.**

f. That the affected site shall be suitable in terms of size, shape and topographic conditions to accommodate the proposed use, building or project and to insure compatibility and the safety and welfare of area residents.

**Staff finds that this site is quite suitable for the use proposed particularly due to its proximity to Shaw A.F.B. The site will be located 386 feet off of Frierson Road in the center of property that Mr. Bill Carter owns on all sides. There is a thick natural buffer on two sides and recycled asphalt on roads to help control dust.**

**The property is highly restricted from a zoning perspective because of various overlay districts of Shaw AFB. The property lies in the Accident Potential Zone (APZ1) and Designated Noise Zones (DNL 1 & 2). The primary relevance of these overlays is that uses are restricted to only those minimally impacted by accident potential and noise: mostly uses that do not generate a high number or large concentration of people.**

**The property is located the Military Protection Planning Area. According to the Sumter County 2030 Comprehensive Plan, the County supports “*commercial, agricultural, and industrial development in this area of a type which significantly limits the concentration of people*” (Policy 1, page LU 17).**

**Therefore Staff finds that the proposed use is suitable to accommodate the proposed use.**

### III. APPEAL

On March 15, 2011, Mr. Joel L. Singletary (“**Appellant**”), along with 141 citizens of the surrounding area, appealed the Zoning Administrator’s decision to approve the conditional use for the mining operation.

Appellant stated on the application form (Exhibit 4) that the use will devalue adjacent and nearby properties, destroy state maintained roads and will create safety hazards and other numerous negative impacts. Appellant requests that the property be maintained for strictly agricultural or conservation uses.

Staff received application for Appeal of Decision of Zoning Administrator on March 15, 2011 within the 30 day time period required for filing an appeal by Zoning Ordinance.

### IV. ADMINISTRATION

The Board of Zoning Appeals shall have the following powers and duties:

- a. **Appeals from administrative interpretation:** To hear and decide appeals where it is alleged there is an error in an order, requirement, decision, or determination made by an administrative official of the Sumter City-County Planning Commission in the enforcement of the Zoning Ordinance.
  1. An appeal shall be taken within thirty (30) days from the date of the decision rendered by the Zoning Administrator by filing with his or her office a written notice of appeal specifying the grounds thereof.
  2. Appeals shall be submitted on application forms obtained from the Zoning Administrator.
  3. All papers constituting the record upon which the appeal action was taken shall forthwith be transmitted to the Board of Zoning Appeals.
  4. An application fee to be utilized for the incidental costs of administration and advertisement shall accompany appeal applications.
  5. Any communication purporting to be an application for an appeal shall be regarded as mere notice to seek relief until it is made in the form required.

## **ROLE OF THE BOARD OF APPEALS**

The Board has the exclusive power to hear and decide appeals where it is alleged the Zoning Administrator, in enforcement of the Zoning Ordinance, erred in an order, requirement, decision or determination. In such cases, the board may reverse or affirm, wholly or in part, or may modify the order, requirements, decision or determination of the Zoning Administrator. The Board has all the powers of the Zoning Administrator in such cases and may issue or direct the issuance of a permit. *S. C. Code 6-29-800 (A)(1) and (E)*.

In its decision on an administrative appeal from a decision of the Zoning Administrator, the Board is not bound by the conclusion or reasoning of the Zoning Administrator and may consider and apply the appropriate provisions of the Zoning Ordinance as dictated by the facts before it.

### **IV. DRAFT MOTIONS for BOA-11-05**

- A. I move that the Zoning Board of Appeals deny BOA-11-05, subject to the findings of fact and conclusions of Exhibit 8: (Note: A vote to deny **UPHOLDS** the Zoning Administrator's decision).
- B. I move that the Zoning Board of Appeals approve BOA-11-05 subject to the following findings of fact and conclusions: (Note: A vote to approve **OVERTURNS** the Zoning Administrator decision).
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-11-05.

### **V. ZONING BOARD OF APPEALS – APRIL 13, 2011**

The Sumter City-County Board of Appeals at its meeting on Wednesday, April 13, 2011, voted to deny this request, subject to the findings of fact and conclusions listed on Exhibit 8.

## **ATTACHMENTS**

- Exhibit 1 – Conditional Use Application Form
- Exhibit 2- Conditional Use Approval letter
- Exhibit 3- Site Plan & Reclamation Plan
- Exhibit 4- Appeal Application and Petition
- Exhibit 5- None
- Exhibit 6 – Aerial with surrounding neighborhoods & schools
- Exhibit 7 – SCDOT Approved Encroachment Permit
- Exhibit 8 – Order on Appeal

**Exhibit 8  
Order on Appeal  
Sumter Board of Appeals**

**BOA-11-05, Frierson Rd. Mining Operation  
Appeal from the Interpretation of the Zoning Administrator  
April 13, 2011**

---

Date Filed: April 13, 2011

Permit Case No. BOA-11-05

The Sumter Board of Appeals held a public hearing on Wednesday, April 13, 2011 to consider the appeal of Joel L. Singletary, 2560 Autumn Terrace, Dalzell, SC 29040, along with 141 other property owners, for an appeal of the interpretation of the Zoning Administrator as set forth on the Form 2. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions:

**Facts:**

- The subject property, a 4.99 portion of tax map 153-00-01-006, is zoned Agricultural Conservation (AC).
- According to Section 3.n.3.b., Mining and Quarrying of nonmetallic minerals is listed as a use permissible upon Conditional Use Review by Planning Staff (Zoning Administrator) in the AC Zoning District.

**Conclusions:**

- Zoning Administrator applied the applicable criteria set forth in the Zoning Ordinance for a conditional use review.
- Zoning Administrator's conclusion and approval of the request was fair and reasonable.
- GIS Map Exhibit created by Staff clearly demonstrate that the site location is not within 300 feet of any residents

THE BOARD, THEREFORE, ORDERS that the appeal is  **DENIED** –  **GRANTED**

Date issued: \_\_\_\_\_

\_\_\_\_\_  
Chairman

Date mailed to parties in interest: \_\_\_\_\_

\_\_\_\_\_  
Secretary

**Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.**