

Sumter City-County Board of Zoning Appeals

January 11, 2012

BOA-11-27, Longleaf Drive Mining Operation Access, D&L Properties (County): Part III Conditional Use Referral

Conditional Use Approval to operate a non-metallic mining operation (Section 3.n.3.b).



Appeals - Variance - Special Exception

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I. THE REQUEST

Applicant:	D&L Properties
Status of the Applicant:	Property Owner of Mining Operation
Request:	Conditional Use Approval to operate a non-metallic mining operation (Section 3.n.3.b)
Location:	End of Longleaf Dr. cul-de-sac
Present Use/Zoning:	Undeveloped/Agricultural Conservation (AC)
Tax Map Reference:	181-00-01-003 (the private drives are represented by numerous adjacent tax map numbers)
Adjacent Property Land Use and Zoning:	North – Floodplain/AC South – Residential/AC East – Residential/AC West – Residential/AC

II. BACKGROUND

Property owner and applicant, D&L properties, propose to develop a Sand and Dirt Mining operation on a 4.98 acre portion of a 137.52 acre tract identified as tax map 181-00-01-003 (the “**Property**”). The Property is located north of Cains Mill Rd., and north of two private roads named Newlevy Dr. and Follin Dr. The Property is east of Bar-zee Drive and west of Longleaf Drive.

The applicant proposes to operate a sand and dirt mining operation consistent with SIC 14, Mining & Quarrying of Non-metallic minerals. This use is listed as a conditional use in the AC Zoning District. Conditional Use and Site Plan applications are required and were submitted on December 1, 2011. The applicant has stated that the mine would serve construction sites in the area, be open for at least 4 years, and generate an estimated 72 truck trips per day.

The Applicant proposes access for the mining operation via Longleaf Dr., a residential access street. Under Section 3.n.3.b of the Zoning Ordinance a mining operation must obtain its access

via a Collector or Arterial. Longleaf Dr. does not meet the criteria for a collector. As such, a variance is required.

In addition, the mining operation access is within 300 feet of a residential property. Section 3.n.3.b requires that no mining operation be within 300 feet of a residential use. Thus, a variance is required for this section. The variance request is detailed in Part II of the request.

Under Article 5, the Zoning Administrator may refer Conditional Use applications to the Board of Zoning Appeals (BZA) for review when relevant zoning and development standards are not or cannot be met. The Board then reviews the merits of the Conditional Use application based on criteria in Section 5.b.1. and the Special Exception Criteria in 1.h.4.c. A simultaneous review of the Conditional Use along with the merits of an appeal and/or variance request is reasonable, in our opinion. Thus, the Zoning Administrator so refers Conditional Use 11-59 Part III to the Sumter City-County Board of Zoning Appeals (see letter to applicant in Attachment 1).

III. Conditional Use Review Criteria

1. As per Section 3.n.3.b. and Section 5.b.1. of the Ordinance the following information was used in reviewing your request:

(Section 3.n.3.b) For mining and quarrying of nonmetallic minerals the following information must be submitted and/or addressed:

- a. A reclamation and reuse plan;
- b. An approximate operating schedule;
- c. No such use shall be located within 300 ft. of any residential use;
- d. The site must obtain its highway access from a collector or an arterial street.

Reclamation and reuse plan: Based upon submitted application information, the proposed reclamation plan for the mine pit is to construct a permanent pond for recreational use. Based on the received DHEC Mining permit, the pond must be constructed in accordance with DHEC Mining Permit Regulations.

Hours of Operation: D&L Properties propose to operate the mining site from 7 a.m. to 7 p.m.

Separation Criteria: Access to the mining operation is within 300 ft. of several residential properties. The Applicant has requested a variance from this requirement.

Site Access: Access is proposed via Longleaf Drive, a residential access street. A variance to this requirement has also been requested.

(Section 5.b.1.) **Criteria for Review:** The following guidelines and criteria shall be implemented by the Zoning Administrator and/or the Sumter City-County Zoning Board of Appeals if a case is referred to the Board by the Zoning Administrator.

- 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;*

We find that this standard has not been met. As estimated by the applicant, a total of 72 truck trips per days will transport dirt to and from the site via Longleaf Dr. Longleaf is a residential street, with over 66 residential units. It is residential in character. The anticipated commercial traffic, non-existent today, will be detrimental to existing and future residential uses.



Longleaf Dr. looking west from Kolb Rd.

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

Off-street parking and loading areas are satisfactory as the locations of loading and unloading appear well away from residential properties.

- 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;*

Refuse and service areas appear adequate as they are interior to the site and not proximate to residential uses.

- 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;*

The Applicant indicates that a 25' buffer (undisturbed) will be left in place along the western edge of the property. If the Board of Zoning Appeals considers approval of this conditional use application, a much more substantive buffer should be in place. We recommend, at a minimum, a condition of approval be added which limits disturbance on site to only the 4.98 mining site and the access road connecting the mining site to Longleaf Dr.

A 25' buffer along the western boundary, in close proximity to residential property is inadequate and does not protect adjacent properties. Limiting disturbance only to the mine operation will ensure a 300' wide buffer area.

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

No signage has been proposed.

- 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.*

The parcel is over 137 acres in size; the mining site proposed at 4.98 acres. The total parcel lies between three residential neighborhoods—Bar-zee Dr., Mallory Dr., and Longleaf Dr. This is not an ideal location for a mining operation even with the mining site set in the interior of the 137 acres. Access is a critical part of whether the overall site is suitable. In this case, with access proposed via Longleaf Dr., the project is not compatible with adjacent properties and the residential uses along Longleaf Dr. We cannot offer any reasonable conditions with any degree of confidence which would ensure the safety and welfare of surrounding residents.

IV. Special Exception Review Criteria

Article 1, Section 1.h.4.c Special Exceptions:

1. *Special exceptions are subject to the terms and conditions for the use set forth for such uses in the Zoning Ordinance.*
2. *Permits for Special Exceptions shall be evaluated by the Board of Zoning Appeals on the basis of the following criteria:*
 - a. *That the Special Exception complies with all applicable development standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements;*

The request requires variances from two parts of Section 3.n.3.b of the Zoning Ordinance.

- b. *That the special exception will be in substantial harmony with the area in which it is located;*

The proposed mining operation is not in substantial harmony with the surrounding area, including the residential properties along Longleaf Dr., which trucks must pass through on the way to and from the site. The access proposed via Longleaf Dr. is not compatible with the residential character of the area.

- c. *That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.*

We find that introducing a mining operation with access through a residential neighborhood will likely negate the use of surrounding property—especially along Longleaf Dr.

V. DRAFT MOTIONS for BOA-11-27, Part III, Conditional Use Review

- A. I move that the Zoning Board of Appeals deny the Conditional Use CU-11-59 referred to the Board of Zoning Appeals by the Zoning Administrator and as described in BOA 11-27, based upon the findings of fact and conclusions of law attached in Exhibit 1.
- B. I move that the Zoning Board of Appeals enter an alternative motion for BOA-11-27.

VI. BOARD OF ZONING APPEALS - JANUARY 11, 2012

Voted to deny BOA-11-27 – Part III Conditional Use Referral based on staff recommendation and subject to the findings of fact and conclusions of law set forth in the Order of Conditional Use/Special Exception (Exhibit 1).

Attachments

1. Zoning Letter dated December 15, 2011
2. Applicant Position/Submission

Exhibit 1
Order on Conditional Use/Special Exception
CU-11-59 Application
Sumter Board of Appeals

BOA-11-27, Longleaf Dr. Mining Operation Conditional Use
(CU-11-59) Referral by the Zoning Administrator
January 11, 2012

Date Filed: January 11, 2012

Permit Case No. BOA-11-27

The Board of Zoning Appeals held a public hearing on Wednesday, January 11, 2012 to consider the request of D&L Properties for conditional use/special exception (upon referral by Zoning Administrator) which may be permitted by the Board pursuant to Sections 1.h.4.c, 3.n.3.b., 5.a.3., 5.a.4, and 5.b.1. of the Sumter City Zoning & Development Standards Ordinance as set forth on Form 4 for the property described on Form 1 to be used for: Mining & quarrying of nonmetallic minerals (SIC #14).

After the consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the conditional use/special exception does - **does not** comply with all applicable development standards contained elsewhere in the Sumter County Zoning Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements based on the following findings of fact:
 - A. The proposed use does not comply with Section 3.n.3.b. which requires a 300 ft. separate between the mining operation and a residential use. The Mining operation includes access to the site.
 - B. The proposed use does not comply with Section 3.n.3.b. which requires the mining operation to obtain access to a collector or arterial. Longleaf Dr. is a residential access street.
 - C. The proposed use does not meet the conditional use standard for egress and ingrees as set forth in Section 5.b.1.f. As estimated by the applicant, a total of 76 truck trips per days will transport dirt to and from the site via Longleaf Dr. Longleaf is a residential street, with over 66 residential units. It is residential in character. The anticipated commercial traffic, non-existent today, will be detrimental to existing and future residential uses.

2. The Board concludes that the proposed conditional use/special exception will - will **not** be in substantial harmony with the area in which it is located based on the following findings of fact:

A. The mining operation lies between three residential neighborhoods and is therefore incompatible with the surrounding residential character. The proposed access via Longleaf Dr. introduces an estimated 72 commercial truck trips per day on a residential street. The introduction of the commercial traffic threatens residential vehicular and pedestrian safety.

B. The request is not in substantial harmony with the surrounding residential uses;

3. The Board concludes the conditional use/special exception will - will **not** discourage or negate the use of surrounding property for uses(s) permitted by right based on the following findings of fact:

A. Longleaf Dr. is a small (22' wide) residential cul-de-sac street design to provide access to residential property. Commercial Truck Traffic generated by the mining operation is incompatible when mixed with the existing residential character. The mining operation will therefore have negative effects on the existing residential properties.

THE BOARD, THEREFORE, ORDERS that the conditional use/special exception is **DENIED** – **GRANTED**.

Approved by the Board by majority vote.

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.