



LINCOLN COUNTY PLANNING & INSPECTIONS DEPARTMENT
302 NORTH ACADEMY STREET, SUITE A, LINCOLNTON, NORTH CAROLINA 28092
704-736-8440 OFFICE 704-736-8434 INSPECTION REQUEST LINE 704-732-9010 FAX

To: Board of Commissioners
Planning Board

From: Randy Hawkins, Zoning Administrator

Date: December 17, 2014

Re: PCUR #154A
B.V. Hedrick Sand and Gravel Co., applicant
Parcel ID# 56506, 34252, 84029, 85905, 31188, 30239, 52622, 02860, 52621,
02862, 73724, 78254, 78253, 02861 and 74885

The following information is for use by the Lincoln County Board of Commissioners and Planning Board at their joint meeting/public hearing on January 5, 2015.

REQUEST

The applicant is requesting to amend a conditional use district and conditional use permit to remove a condition that states that the applicant will abide by an restrictive covenant agreement with Pulte Homes (an agreement that has been nullified), to revise a site plan to enlarge future mining areas near portions of the northern boundary of the applicant's property, and to specify the size of a planned berm along a portion of that boundary. The conditional use district and conditional use permit were approved in 2007 to bring the grandfathered Lake Norman Quarry into conformity and to permit its future expansion.

SITE AREA AND DESCRIPTION

The 498-acre site is located at 6941 Quarry Lane, about 1,600 feet west of N.C 16 Business and 4,200 feet north of Old Plank Road. The property is zoned CU I-G (Conditional Use General Industrial). It is adjoined by property zoned I-G, PD-R (Planned Development-Residential) and R-T (Transitional Residential). Land uses in this area include industrial and residential. This property is located in an area designated by the Lincoln County Land Use Plan as industrial.

2007 APPROVED PLAN

Following are the conditions and site plan that were approved in 2007. The plan shows a buffer line that was referenced in the restrictive covenant agreement, which was nullified when Pulte notified Hedrick that it had elected not to purchase the adjoining property. Hedrick's proposed revised plan is included with its application to amend the district and permit.



COUNTY OF LINCOLN, NORTH CAROLINA

302 NORTH ACADEMY STREET, SUITE A, LINCOLNTON, NORTH CAROLINA 28092

BUILDING AND LAND DEVELOPMENT
(704) 736-8440 OFFICE
(704) 736-8434 INSPECTION REQUEST
(704) 732-9010 FAX

August 21, 2007

Jason Connor
B.V. Hedrick Gravel and Sand Co.
7 Yorkshire St., Suite 102
Asheville, NC 28803

Dear Mr. Connor:

This letter is to serve notice that on August 20, 2007, the Lincoln County Board of Commissioners took the following action regarding your company's request for a parallel conditional use rezoning (PCUR #154):

Voted 5-0 to approve the request and rezone 498 acres from I-G (General Industrial) and R-T (Transitional Residential) to CU I-G (Conditional Use General Industrial) to allow the expansion of a quarry under a conditional use permit that also applies to the existing quarry operation, subject to the following conditions:

- 1) That the applicant engage in discussions with Blum and with the resident who raised concerns.*
- 2) That a conditional letter of map revision be approved by the Federal Emergency Management Agency before any encroachment is made into the floodplain on the north side of Forney Creek.*
- 3) That the applicant comply with all of the proposed conditions included in the rezoning application (see attachment).*
- 4) That the applicant comply with all the terms of the agreement cited in the August 20, 2007, letter from Blum Inc. CEO/General Management Karl Ruedisser (see attachment).*

If you have any questions concerning this matter, please feel free to contact me at (704) 748-1507.

Sincerely,

A handwritten signature in cursive script that reads "Randy Hawkins".

Randy Hawkins
Zoning Administrator

Conditions

B.V. Hedrick Gravel and Sand Company propose the following conditions for the Conditional Use Permit to continue to operate the Lake Norman Quarry:

1. Hedrick Industries will abide by the Development and Restrictive Covenant Agreement made and entered into as of May 15, 2006 between Pulte Home Corporation ("Pulte") and B.V. Hedrick Gravel and Sand Company, INC. ("Hedrick"). Refer to Exhibit H for the Agreement and Exhibit I for the Quarry Pulte Buffer Survey.
2. Hedrick Industries will continue to develop the Quarry in accordance with the Site Plan attached.
3. Hedrick Industries will maintain its North Carolina Mining Permit covering the Quarry and the uses proposed at all times during the operation of the quarry and the reclamation of the site.
4. Blasting:
 - a. Blasting impacts at the closest, non-company-owned, occupied structures, limited by state law to 1" per second PPV. Extensive Federal Bureau of Mines studies show that 2" per second PPV is a safe threshold at which no damage will occur. Hedrick Industries will size each blast event so that off-site impacts will not be above the State limit.
 - b. In accordance with North Carolina law, a seismograph reading will include: date, time, pounds per delay, location of blast, location of seismograph peak particle velocity readings and decibel readings. Refer to Exhibit J
5. Buffer and Berms

A buffer area, which may include existing roads or berms, will be maintained a minimum of 50 feet back from all boundary lines; berms may be included in this buffer area with permission from the Department of Environment and Natural Resources.

6. Containment Structures; Storage

No fuel or petroleum products will be stored within 50 feet from any water body. All petroleum products will be stored in secondary containment.

7. Dust Control

The applicant will control dust by the use of a water truck on haul roads and with spray bars on the processing equipment.

Lake Norman Quarry
Hedrick Industries

8. Reclamation

At the conclusion of mining, the Quarry will be reclaimed in accordance with the requirements on the NC Mining Act and Mining permit.

9. Access

There will be no access from any public road other than at the existing access to Highway 16.

Mr. Tom Anderson
Lincoln County Board of Commissioners
115 W. Main Street
Lincolnton, NC 28092

Blum, Inc.
7733 Old Plank Rd.
Stanley, NC 28164
toll free 1-800-438-6788
local 704-827-1345
fax 704-827-0799
Internet www.blum.us

August 20, 2007

RE: PCUR #154 B.V. Hedrick Gravel and Sand Co.

Dear Planning Board and Board of Commissioners,

Blum Inc. has been in active discussions with B.V. Hedrick Gravel and Sand Co. since voicing our opposition to their zoning request change on August 6, 2007. The companies had a positive initial meeting on August 14, 2007, and an agreement was reached for B.V. Hedrick Sand and Gravel Co. to provide 3rd party seismic monitoring of their next "shot" scheduled for August 17, 2007. The monitoring included (4) four seismic devices inside our existing building, (2) two on Blum's property, and (2) two on Hedrick's property. The (4) four external monitoring devices were placed at approximately 1,000 ft increments from the location of the "shot" so that the vibration regression from B.V. Hedrick Gravel and Sand Co. to Blum Inc. could be measured.

Blum Inc. is satisfied with the results of the tests and will not oppose PCUR #154 zoning request change per the following agreement reached with B.V. Hedrick Gravel and Sand Co.:

1. B.V. Hedrick Sand and Gravel Co. will provide a minimum 6-month notice prior to beginning blasting on the proposed pit in the Southwest corner of their property. This will allow Blum Inc. time to complete a pre-blast survey of our existing facility and evaluate the tolerable limits of the equipment currently in use.
2. B.V. Hedrick Sand and Gravel Co. agrees to discuss blasting procedures and will modify as required to not negatively impact Blum Inc. equipment or facility.
3. B.V. Hedrick Sand and Gravel Co. will support Blum Inc. in its future rezoning request to move parcel 34251 from R-T (Transitional Residential) to I-G (General Industrial) use.

Thank you very much for your consideration and support during this process. Please feel free to contact me at 704-827-1345 if you have any questions or concerns.

Regards,



Karl Ruedisser
CEO / General Manager
Blum Inc.

cc: Mr. Jeffrey Goodman
Mr. Jason Conner
Mr. Bill White
Mr. Randy Hawkins

B.V. Hedrick Sand and Gravel Co.
B.V. Hedrick Sand and Gravel Co.
Moore & Van Allen
Lincoln County Zoning Administrator

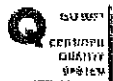
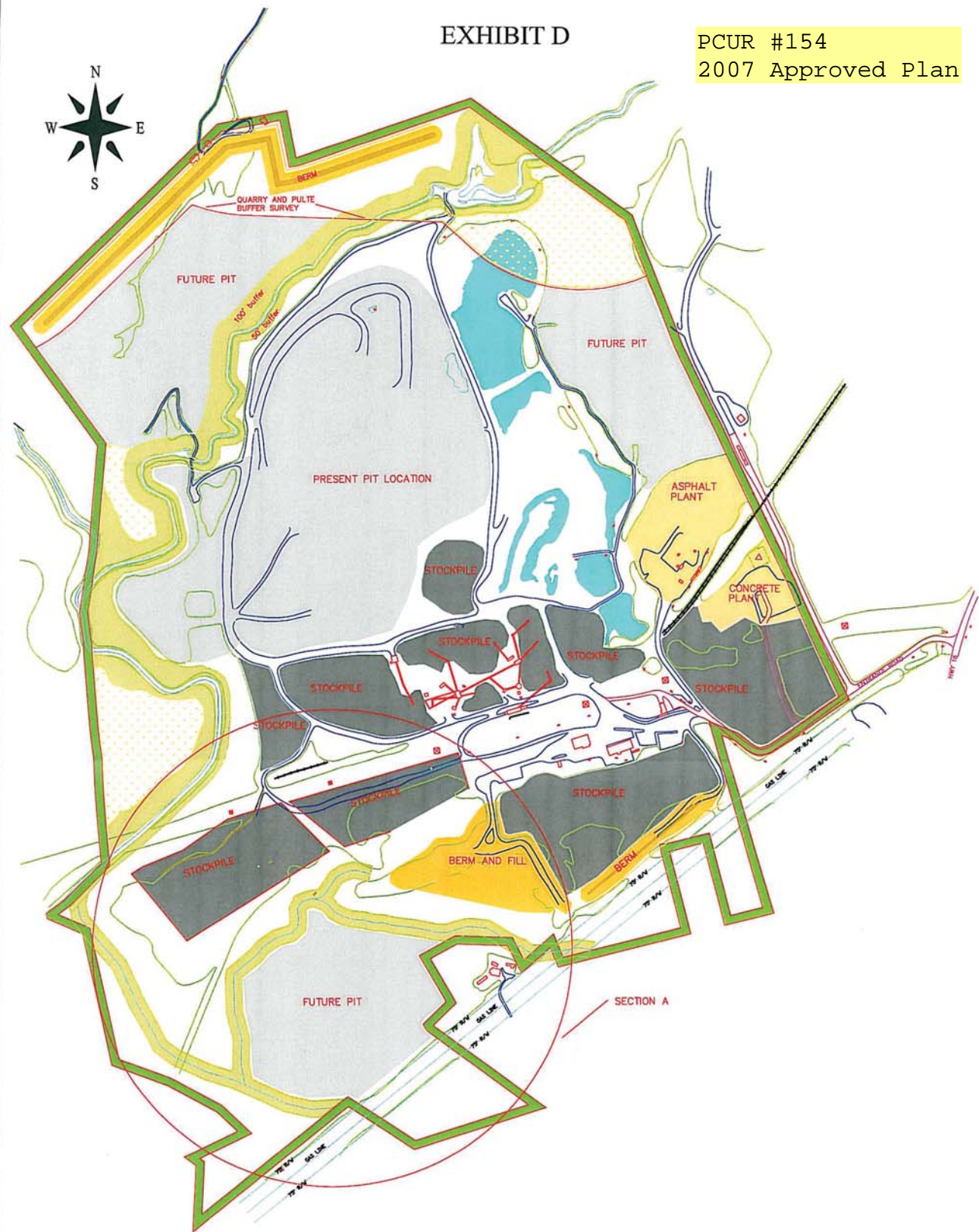


EXHIBIT D

PCUR #154
2007 Approved Plan



LEGEND

B.V. HEDRICK PROPERTY LINES
50' BUFFER
PIT AREAS
BERM AND FILL AREAS
STOCKPILE AREAS
PONDS
UNDISTURBED WILDLIFE AREA
50' & 100' UNDISTURBED BUFFERS



NOTE:

A. Lake Norman Quarry & Pulte Home Buffer: A development and restrictive covenant agreement was signed between B.V. Hedrick Gravel and Sand Company and Pulte Home Corporation on May 15th 2006. This resulted in the Lake Norman Quarry and Pulte Buffer located in the northern portion of the property. Under this agreement Hedrick agrees that no blasting or use of explosives or other means to extract minerals, nor any other industrial use shall be permitted except for the following: (i) storage of natural materials; (ii) storage of yard materials; (iii) storage of mobile equipment; (iv) warehousing; (v) garage or maintenance shop; (vi) parking; and (vii) truck or vehicular traffic and site development work incidental to the above permitted uses, provided that all such uses are in compliance with the Quarry's permits and other applicable law ("Quarry Buffer").

B. Section A will consist of a stockpile and fill area until the need to expand the quarry in the southern direction. At that time this area will become part of the quarry area.

TOTAL SITE ACREAGE ± 498.27 ACRES

B.V. HEDRICK GRAVEL AND SAND COMPANY

PROPOSED LAND USE / SITE PLAN MAP

LAKE NORMAN QUARRY
LINCOLN COUNTY, NC

Drawn by:	Date:	Page:
Check by:	Scale:	1/1
	NOT TO SCALE	



County Of Lincoln, North Carolina

Planning Board

Applicant **B.V. Hedrick Gravel and Sand Co.**

Application No. **PCUR #154A**

Property Location **6941 Quarry Lane**

Zoning District **CU I-G**

Proposed Amendments **remove a condition that states that the applicant will abide by an restrictive covenant agreement with Pulte Homes (an agreement that has been nullified), revise a site plan to enlarge future mining areas near the northern boundary of the applicant's property, and specify the size of a planned berm a portion of that that boundary**

FINDINGS OF FACT

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES _____ NO _____

FACTUAL REASONS CITED: _____

2. The use meets all required conditions and specifications. YES _____ NO _____

FACTUAL REASONS CITED: _____

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES _____ NO _____

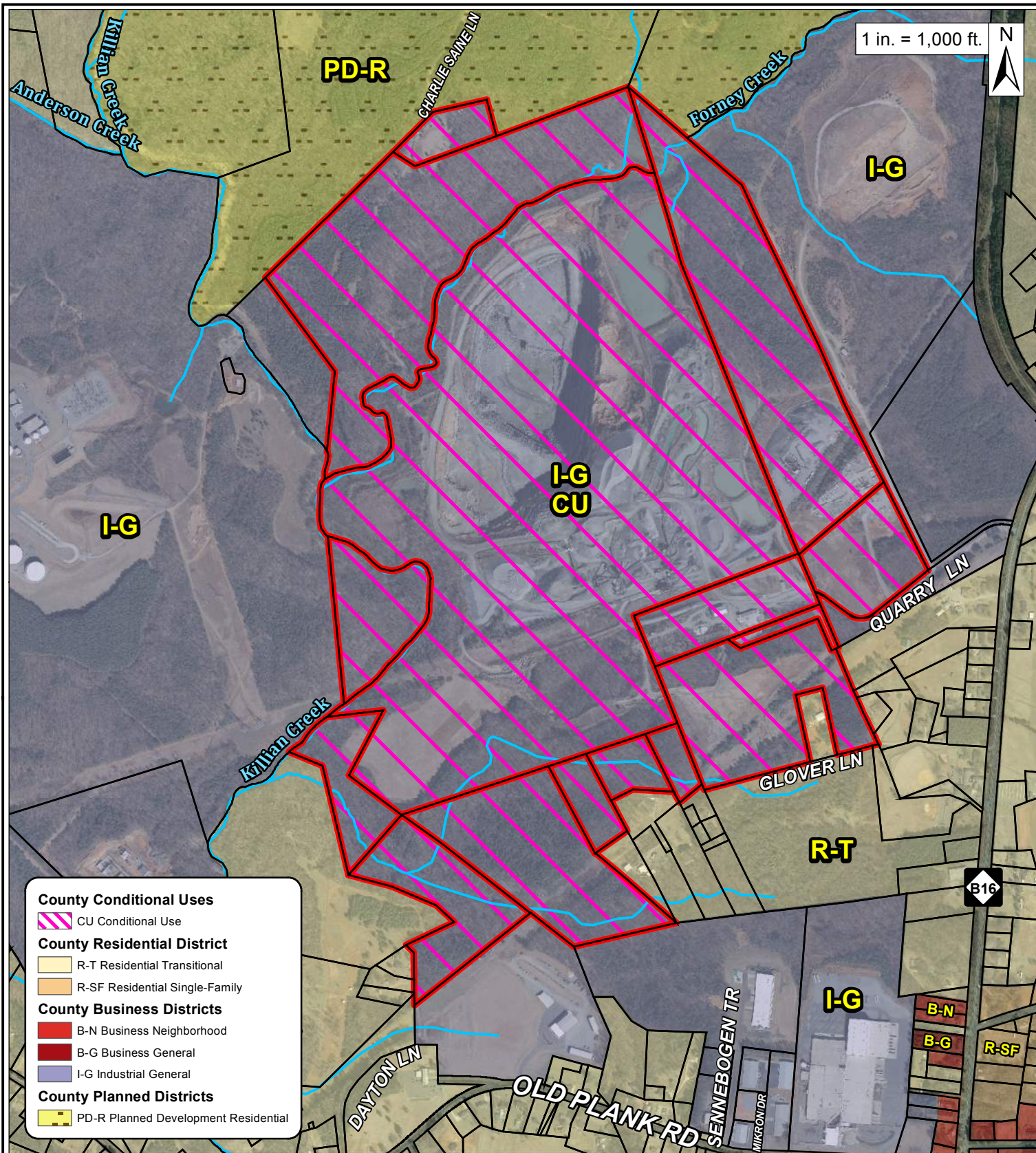
FACTUAL REASONS CITED: _____

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES _____ NO _____

FACTUAL REASONS CITED: _____

After having held a Public Hearing on _____ and in light of the Findings of Facts listed herein, the following action was taken by the Lincoln County Planning Board:

In recommending such Conditional Use, the following conditions were recommended by the Lincoln County Planning Board:



PARALLEL CONDITIONAL USE REZONING

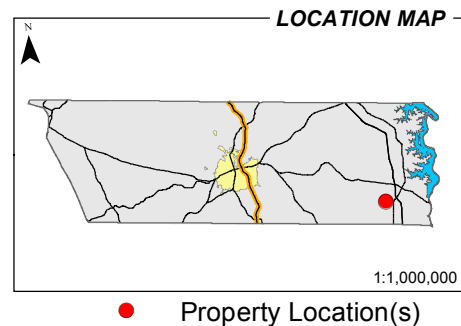
Application	PCUR #154A
NCPIN#	MULTIPLE
PID#	MULTIPLE

- Property Location(s)

See Attached Application for Parcel Information
Property Location(s) Outlined in Red



Lincoln County
Planning & Inspections
302 N. Academy St.
Suite A
Lincolnton, NC 28092





Application to Amend Conditional Use District
Lincoln County Building and Land Development
Zoning Administrator
302 N. Academy St. Lincolnton, NC 28092
Phone: (704)736-8440 FAX: (704)732-9010

PART 1

Applicant Name: B.V. Hedrick Gravel and Sand Company

Applicant Address: P.O. Box 425 Swannanoa, NC 28778

Applicant Phone Number: (828) 686-3844

Property Owner Name: Same as above

Property Owner Address: Same as above

Property Owner Phone Number: Same as above

PART 11

Property Location

The property is located on Highway 16 between the junction of Hwy 16 and Hwy 73 and the town of Lowesville and is shown on the Exhibit A vicinity map.

<u>Property ID (10 digits)</u>	<u>Property Size</u>
Tract 1: 3691-96-4888	1.95 acres
Tract 2: 3691-96-2216	28.48 acres
Tract 3: 3691-85-3800	4.39 acres
Tract 4: 3691-85-6983	2.9 acres
Tract 5: 3691-85-0568	5 acres
Tract 6: 3691-75-7176	28.4 acres
Tract 7: 3692-70-0615	5 acres
Tract 8: 3691-98-5823	55 acres
Tract 9: 3691-69-6786	64.9 acres
Tract 10: 3691-78-6885	235.90 acres
Tract 11: 3691-67-4030	13.46 acres
Tract 12: 3691-65-2567	9.5 acres
Tract 13: 3691-74-1834	17.13 acres
Tract 14: 3691-97-1012	13.2 acres
Tract 15: 4601-07-1336	12.96 acres

<u>Parcel # (5 digits)</u>	<u>Deed Book(s)</u>	<u>Page(s)</u>
Tract 1: 56506	792	230
Tract 2: 34252	1609	759
Tract 3: 84029	1697	403
Tract 4: 85905	1697	406
Tract 5: 31188	1697	400
Tract 6: 30239	1095	076
Tract 7: 52622	711	636

<u>Parcel # (5 digits)</u>	<u>Deed Book(s)</u>	<u>Page(s)</u>
Tract 8 : 02860	641	845
Tract 9 : 52621	711	636
Tract 10 : 02862	659	192
Tract 11 : 73724	749	825
Tract 12 : 78254	1211	666
Tract 13 : 78253	1790	051
Tract 14 : 02861	641	151
Tract 15 : 74885	1665	727

PART 111

Existing Zoning District: Tracts 1-15 are zoned CU I-G.

Briefly explain the proposed change in the conditional use district: Lake Norman Quarry is asking to remove Condition 1 of PCUR #154 that was approved on August 20, 2007 in order to allow expansion of mining into the area noted on the revised site plan up to our required 50 foot setback as stated in our North Carolina Mining Permit and to clarify any requirements of a berm. Condition 1 to be removed states, that Hedrick Industries will abide by the Development and Restrictive Covenant Agreement made and entered into as of May 15, 2006 between Pulte Homes Corporation ("Pulte") and B.V. Hedrick Gravel and Sand Company, Inc. ("Hedrick"). The Pulte-Hedrick Agreement was nullified by Pulte's failure to purchase the Clark Property and / or the rezoning of the Clark Property to allow the Shea Homes Project without adherence to said Agreement. The Pulte-Hedrick Agreement only applied to parcels 52622, 52621, 02860 referenced above.

\$750.00* APPLICATION FEE MUST BE RECEIVED BEFORE PROCESSING.

I hereby certify that all knowledge of the information provided for this application and attachments is true and correct to the best of my knowledge.

Applicant's Signature

B.V. Hedrick Gravel and Sand Company

By: Jason Conner
 Jason Conner
 Manager Land Resources

Date: 12/4/14

APPLICANT'S PROPOSED FINDINGS OF FACT
FOR AMENDING A CONDITIONAL USE DISTRICT/PERMIT

Application No.: PCUR# 154A Applicant: B.V. Hedrick Gravel and Sand Co.

Property Location: 6941 Quarry Lane

Parcel ID# 56506, 34252, 84029, 85905, 31188, 30239, 52622, 02860, 52621, 02862, 73724, 78254, 78253, 02861 and 74885

Proposed Amendments: **remove a condition that states that the applicant will abide by a restrictive covenant agreement with Pulte Homes (an agreement that has been nullified), revise a site plan to reduce a buffer area along the northern boundary of the applicant's property, and specify the size of a planned berm along the northern boundary**

PROPOSED FINDINGS

1. **The use will not materially endanger the public health or safety if located where proposed and developed according to plan.**
 - (i) The Lake Norman Quarry is owned by Hedrick Industries, a North Carolina company, and comprises approximately 498 total acres in 16 parcels west of NC Highway 16 in southeast Lincoln County, NC ("Quarry").
 - (ii) The Quarry opened in May, 1985. At that time, the Lincoln County Board of Commissioners authorized \$2 million dollars of industrial revenue bonds to assist in the financing of the Quarry operations.
 - (iii) More than \$19 million dollars have been invested in the Quarry.
 - (iv) There are approximately 25 employees with a gross payroll in 2013 of \$1,100,000.00. There are approximately 128 more employees involved with affiliated activities, including the asphalt and concrete plants located on-site.
 - (v) Numerous projects within Lincoln County have benefitted from the use of the Quarry's materials, including the CMC-Lincoln Hospital, expansion projects at the Lincoln County airport and new Highway 16.
 - (vi) On August 20, 2007, the Quarry property was rezoned from I-G (General Industrial) and R-T (Transitional Residential) to CU I-G (Conditional Use General Industrial), subject to conditions imposed as part of a conditional use permit as spelled out in a letter from Randy Hawkins, Zoning Administrator, to Jason Conner for Hedrick dated August 21, 2007.
 - (vii) The Quarry abuts on its East, West and South boundaries heavy industrial-zoned property. There are a significant number of heavy industrial uses in close proximity to the Quarry, including the Duke Power facility and the Republic Waste Construction Landfill.

- (viii) Hedrick's proposal is to alter the existing site plan to allow for additional expansion of the mining operations of the Quarry into the area to the North of the Quarry's existing main operations site as shown on the revised site plan submitted with the new zoning request ("Expansion Area"). Moreover, Hedrick's request is to delete the zoning permit condition of adhering to the Development and Restrictive Covenant Agreement made and entered into as of May 15, 2006 between Pulte Home Corporation for the adjoining Clark family property and Hedrick ("Pulte Agreement").
- (ix) Because Pulte Home Corporation did not ultimately close on the adjoining Clark family property and because all of the terms of the Pulte Agreement were not carried forward in the recent rezoning of the Clark family property at the request of Shea Homes, the Pulte Agreement is no longer in effect and enforceable.
- (x) As detailed below, the use of the Expansion Area for quarry operations, including mining, is conditioned upon Hedrick complying with State requirements imposed as part of its State mining permit.
- (xi) The use of the Expansion Area will extend the life of the Quarry for an additional 8 to 10 years.
- (xii) The use of the Expansion Area for mining will create an additional 5 million tons of material.
- (xiii) Having a quarry located in Eastern Lincoln County which is undergoing rapid growth helps keep construction costs from rising and eliminates any future decline in aggregate supplies.
- (xiv) The mining industry in North Carolina is heavily regulated. Four agencies regulate mining in the state, including the N.C. Department of Environment and Natural Resources and the federal Mine Safety and Health Administration. Blasting and noise impact studies were conducted to measure the effects of the proposed use of the Expansion Area on the surrounding land areas and to ensure the Quarry's expanded use would meet all applicable state and federal guidelines. Compliance with Hedrick's required State permits, being (1) State mining permit; (2) Air Quality Permit from NCDENR; and (3) NPDES Permit issued by the Division of Water Quality, will mitigate any perceived adverse impacts resulting from the use of the Expansion Area.
- (xv) The studies prepared by Arpeggio Acoustic Consulting, LLC and Austin Powder Company, and testimony related thereto, are credible and are competent, substantial and material proof that Hedrick's operations in the Expansion Area will maintain safe and adequate levels for noise and vibrations in accordance with applicable standards adopted by the State of North Carolina and United States Bureau of Mines (USBM).
- (xvi) Since it opened approximately 30 years ago, Hedrick has never been cited for any violations of State mining requirements as determined by the applicable State agency.
- (xvii) The adjoining road infrastructure, principally being NC 16, will adequately serve the Quarry traffic.

- (xviii) The existing 50 foot buffer area condition together with State standards imposed on Hedrick's mining permit and the buffer requirements imposed on the adjoining Clark family property as part of Shea Homes development application will adequately protect the public's health and safety.

2. The use meets all required conditions and specifications.

- (i) Lincoln County regulates zoning of the Quarry property and the surrounding area. The Quarry property is designated Conditional Use General Industrial District (CU I-G) and is in compliance with conditional zoning requirements.
- (ii) According to Section 9.111.10C of the current UDO, Hedrick's proposed amendment to its CUP is to be reviewed in accordance with the procedure and standards which governed its approval in 2007 ("2007 Code").
- (iii) Hedrick's request for the use of the Expansion Area meets all required conditions and specifications in the 2007 Code.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.

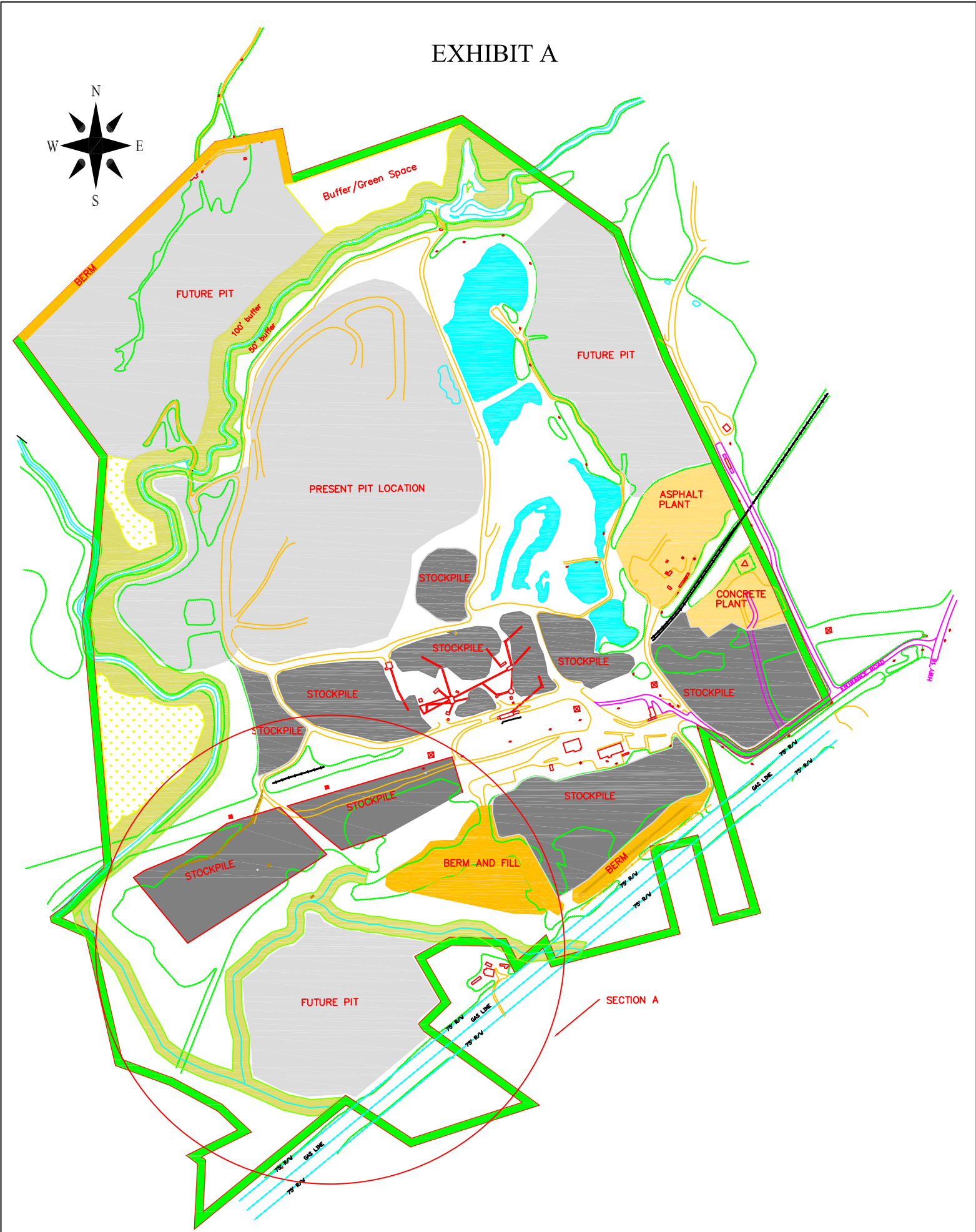
- (i) An independent impact study conducted by Fortenberry Lambert, Inc., concluded the proposed expansion will not substantially injure the value of adjoining property ("FL Value Study"). The FL Value Study and testimony related thereto is found to be credible and substantial, competent and material evidence that the Quarry operations in the Expansion Area as shown on the revised site plan will not in fact substantially injure the value of adjoining or abutting property.
- (ii) Trends in assessed values of surrounding properties since Quarry operations began around 1985 have not adversely impacted the Quarry's surrounding neighborhood property values, and the expansion should have a minimal impact on current operation of the site. The Quarry will maintain its current main entrance and will not open other entrances to the proposed Expansion Area. Basic operations will not change. No additional traffic will be generated in the area due to the expansion.

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.

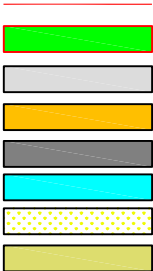
- (i) The Quarry and its proposed Expansion Area is located within a concentrated industrial area off NC 16 and Old Plank Road as shown on the County's Future Land Use Plan Map (p. 50, Land Use Plan; Future Land Use Plan Map).

- (ii) The use of the proposed Expansion Area satisfies many of the goals and objectives in the County's Land Use Plan, including the following: (1) Prime Employment and Industrial Sites Are to be Preserved; Appropriate Economic Development is to be Encouraged (Principle 4, p. 38 Land Use Plan; p. 67, Land Use Plan); and (2) Ensure that Lincoln County remains an "affordable" place in which to build and live.
- (iii) The Quarry and its proposed Expansion Area provides significant benefits to the County in the form of employment opportunities and tax revenues.
- (iv) The Quarry and its proposed Expansion Area facilitates the lowering of construction costs for highway projects and other projects requiring aggregate by having such a source of material in close proximity to Lincoln County's development corridors.
- (v) Mining and quarrying involve a unique use of land. Unlike other uses where the land is incidental to the business operations, the mining and quarrying industry is comprised of the excavation and sale of the very natural resources that make up the property. Areas are left in reserve, un-excavated for long periods of time, until their resources are actually needed. In a quarrying business, the land itself is a material or resource. It constitutes a diminishing asset and is consumed in the very process of use. It is in the very nature of such business that reserve areas be maintained which are left vacant or devoted to incidental uses until they are needed. Consequently, the expansion into reserve areas is an integral and critical part of the Quarry operations.
- (vi) Hedrick was willing to concede to a larger buffer than 50 feet in width (as required by its State mining permit) which affected the Expansion Area as a direct consequence of the concessions obtained from Pulte in the Pulte Agreement, including a covenant not to sue. Because that agreement is no longer in place, the original expectations of the parties should be honored.
- (vii) Hedrick's Quarry has been in place for approximately 30 years. It has existed in an area predominately zoned heavy industrial and encouraged as such by the County's Land Use Plan. It is reasonable that anyone owning or operating property in the near vicinity of the Quarry should expect that the mining operations would expand into previously un-excavated areas.
- (viii) By extending the life of the Quarry with the use of the Expansion Area for mining materials, it encourages the continued vitality of a long established quarry operation while mitigating the need for new quarries to open in other areas which may conflict with the reasonable expectations of adjoining properties that do not have the same history.

EXHIBIT A



- LEGEND**
- B.V. HEDRICK PROPERTY LINES
- 50' BUFFER
- PIT AREAS
- BERM AND FILL AREAS
- STOCKPILE AREAS
- PONDS
- WILDLIFE AREA
- 50' & 100' UNDISTURBED BUFFERS



NOTE:

A. Section A will consist of a stockpile and fill area until the need to expand the quarry in the southern direction. At that time this area will become part of the quarry area.

B. Berm located on northern boundary of quarry will be 10' in height, and 50' in width.

TOTAL SITE ACREAGE ± 498.27 ACRES

B.V. HEDRICK GRAVEL AND SAND COMPANY		
PROPOSED LAND USE / SITE PLAN MAP		
LAKE NORMAN QUARRY LINCOLN COUNTY, NC		
Drawn by: RJC	Date: 12/04/2014	Page: 1/1
Check By:	Scale: NOT TO SCALE	