

STAFF REPORT

HEARINGS: Planning & Zoning Commission: September 11, 2023

APPLICANT: Lee Pedone

FILE NUMBER: CU-23-07

REQUEST: Conditional Use Permit for Excavation

GENERAL

LOCATION: South of Dashback Street and east side of Kettering Road

PARCEL KEY

NUMBER: 536254, 424678, 1299115, 424641, 1342666, 396716

APPLICANT'S REQUEST:

On January 13, 2020, the Planning and Zoning Commission approved a Conditional Use permit for Excavation on three (3) parcels totaling 39.0 acres. The petitioner's current request is for a Conditional Use Permit for excavation on six (6) parcels surrounding the initial three (3) tracts. All parcels are separate legal lots and range in size from 59.0 to 10.0 acres (190.0 Total Acres). Excavations are permitted by the County Land Development Regulations through a Conditional Use Permit for up to five (5) years; however, these permits are limited to 40.0 acres. The petitioner's request includes six (6) parcels or excavation to phase the project and avoid multiple applications and permits. No single parcel will exceed the maximum 40.0-acre requirement.

The excavation will be accomplished by front end loader and track mounted excavator. Excavation will extend vertically downward to an approximate elevation of 60'. In no case will excavations extend into clay, limestone or groundwater. Excavated sand material is temporarily stockpiled onsite awaiting sale and transport. There is no washing, screening, classifying or other processing of the excavated materials onsite. The excavation will operate seven (7) days per week. At the current rate of production, the site could possibly operate for 5-10 more years, depending on demand. Approximately 75% of the available material from the middle 20 acre site has been removed. The 10 acre parcels to the north and south remain undisturbed pasture.

Upon completion, the project will be reclaimed to FLUCFCS 183313 Improved Pasture, as follows:

- Land surface shall be stabilized and graded smooth to promote sheet flow of runoff.
- Pre-application of granular fertilizer (15-10-15) at a rate of 300 lb/acre.
- Hydroseeding of grass seed, species to be determined specific to time of year.

SITE CHARACTERISTICS:

Site Size: 152.3 acres

**Surrounding Zoning;
Land Uses:**

North: PDP(IND); Undeveloped
South: AG; Undeveloped
East: AG; Undeveloped
West: CPDP; Undeveloped

Current Zoning: AG (Agricultural); CPDP(SF and MF)/Combined
Planned Development Project (Single Family
and Multifamily) – approved July 12, 2006

**Future Land Use
Map Designation:** I-75 Planned Development District

Flood Zone: C; Small northeast portion within AE flood zone

ENVIRONMENTAL REVIEW:

Soil Type: Adamsville fine sand and Candler fine sand

**Hydrologic
Features:** The subject property contains no wetlands or
Special Protection Areas (SPA), according to
County data resources.

**Protection
Features:** The property is not located within a Wellhead
Protection Area (WHPA) according to County data
resources.

Habitat: Candler fine sand provides a habitat suitable for
gopher tortoises. Given the presence of the Candler
fine soils, gopher tortoise habitat and several
commensal species have a moderate potential for
occurring on the project site including eastern indigo
snake (*Drymarchon corais*), Florida mouse
(*Podomys floridanus*), Florida pine snake (*Pituophis
melanoleucus mugitus*), and gopher frog (*Rana
areolata*). Since there is the potential for this listed
Species of Special Concern to be present, the site
should be inspected prior to construction, and a
Florida Fish and Wildlife Conservation Commission
permit may be required prior to site alterations.

Comments:

A comprehensive wildlife/gopher tortoise survey shall be conducted in order to identify any listed species present on the property. A Florida Fish and Wildlife Conservation Commission (FWC) permit may be required prior to site alterations. The petitioner is required to comply with all applicable FWC regulations.

ENGINEERING & TRANSPORTATION REVIEW:

The property is located east of Kettering Road and south of Dashbach Street. Access to the site will be along Kettering Road, south of Dashbach Street, via Ariana Dairy Farm, also owned by the petitioner.

The County Engineer has reviewed the request and indicated the following:

- This property contains 7 areas of flood Zone “AE”, 2 of which are on the perimeter of the site. The proposed approval extends the mine operation into new areas.
- The tracking of soil and debris into the Kettering Road right-of-way is not permitted. The petitioner shall be responsible for providing a system to keep debris from tracking onto the county roadway.
- The developer shall comply with the requirement of the Road Maintenance Agreement, approved by Board of County Commissioners on April 28, 2015. Per the agreement a “Truck Fee” to cover the maintenance and traffic control cost for the excavation operation of \$0.75 per truck load is to be remitted to the County monthly.
- Annually a Certified Public Accountants certificate documenting the accuracy is to be submitted by April 15. To date some payments have been received, however the required CPA certification was last received for 2020. CPA Certification has not been received for 2021, 2022.
- The Road Maintenance Agreement shall be updated to include the additional parcels.

LAND USE REVIEW:

The following parcels are proposed for excavation:

1. Key #536254 = 25.6
2. Key #424650 = 10.1
3. Key #424641 = 59.1
4. Key #424678 = 20.2
5. Key #1342666 = 29.3
6. Key #1299115 = 8.0

Comments: At no time shall any single parcel exceed the maximum requirement of 40.0 acres. Additionally, no parcel shall be paired or phased with a larger parcel in order to achieve 40.0 acres

Buffer

The buffer requirement shall be a minimum of one hundred (100) feet measured perpendicular from the property line. Where required, the buffer shall shield adjoining properties when viewed from the property line. The buffer must shield the operation at the time excavation begins. Shielding shall meet an eighty percent (80%) opacity standard. Berms, towers, stockpiles and other similar items which extend above the buffer need not be shielded. The clearing and stripping of vegetation from the land shall not require the pre-establishment of a buffer. If approved, the petitioner must meet the minimum buffering requirements of the County's LDRs.

The excavation of the site will have to comply with the County's LDRs relating to excavation. The standards address the provision of screening (vegetative or berm), hours of operation, fugitive dust control, reclamation, etc.

A conditional use permit is intended to be used as a special permit which temporarily allows uses not otherwise permitted by the ordinance. The Commission has the ability to grant a conditional use permit for a period up to five (5) years.

NOTICE OF APPLICANT RESPONSIBILITY:

The conditional use permit process is a land use determination and does not constitute a permit for either construction, or use of, the property, or a Certificate of Concurrence. Prior to use of, or construction on, the property, the petitioner must receive approval from the appropriate County department(s) for the proposed use.

The granting of this land use determination does not protect the owner from civil liability for recorded deed restrictions which may exceed any county land use ordinances. Homeowners associations or architectural review committees require submission of plans for review and approval. The applicant for this land use request should contact the local association or the Public Records for all restrictions applicable to this property.

STAFF RECOMMENDATIONS:

It is recommended that the Planning and Zoning Commission approve the Conditional Use Permit for Excavation for a period of five (5) years with the following conditions:

1. The petitioner must obtain all permits from Hernando County and other applicable agencies and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. If a clay lens is encountered during the excavation operation, the petitioner must modify the Excavation Permit to review the new elevation of the excavation bottom.
3. The petitioner must maintain a valid SWFWMD permit prior to the issuance of the Excavation Permit.

4. A minimum 100' buffer/setback shall be provided along the perimeter of the excavation site. Any buffer/setback that has been encroached upon by the mining operation shall be restored in accordance with County regulations. Where required, the buffer shall shield adjoining properties when viewed from the property line. The buffer shall shield the operation at the time excavation begins.
5. No excavation shall commence until such time the petitioner applies and is approved for an Excavation Permit.
6. The developer shall comply with the requirements of the Road Maintenance Agreement approved by the Board of County Commissioners on April 28, 2015. Per the agreement a 'truck fee' to cover the maintenance and traffic control cost for the excavation operation of \$0.75 per truck load is to be remitted to the County monthly.
7. The petitioner shall provide an annual certification from a Certified Public Accountant documenting the accuracy of the Road Maintenance Agreement fees.
8. The petitioner shall not utilize Dashbach Street for access.
9. At no time shall any single parcel exceed the maximum requirement of 40.0 acres.
10. The petitioner shall coordinate with the Hernando County Planning Division to ensure no gopher tortoises have re-entered the excavation site.