

## STAFF REPORT

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**HEARINGS:** Planning & Zoning Commission: September 11, 2023  
Board of County Commissioners: October 10, 2023  
Planning & Zoning Commission: October 9, 2023  
Board of County Commissioners: October 24, 2023

**APPLICANT:** M. Daniel Construction, Inc.

**REPRESENTATIVE:** Darryl W. Johnston, Esq.

**FILE NUMBER:** H-22-63

**REQUEST:** Expansion of a Public Service Facility Overlay District (PSFOD) with Deviations

**GENERAL LOCATION:** West side of Sunshine Grove Road, approximately 2,000' north of Ken Austin Parkway

**PARCEL KEY NUMBER:** 344354

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### APPLICANT'S REQUEST:

The petitioner is requesting an expansion of an existing Public Service Facility Overlay District (PSFOD) to create a Class III landfill (yard trash, construction and demolition debris and furniture; no appliances), as identified by Rule 62-701, F.A.C. The landfill has been in existence since 1993 and is currently about 12.84 acres (center western portion of the subject site). The petitioner proposes expanding the landfill to the remaining 110.1 acres. The Class III landfill will be required by the Florida Administrative Code to provide a protective liner for the landfill.

This subject application has two corresponding applications. A rezoning from Mining to Agriculture (H2310) and a Conditional Use Permit (CU2301), which requests excavation of the eastern most 40.0 acres. The subject site has been utilized since the early 1990's for landfill and sand excavation.

The County LDR's require a minimum of 1,000' setback/buffer for C&D Landfills from schools. The petitioner is requesting a deviation in the minimum setback/buffer from the required 1,000' to 200' in order to maintain the distance that has historically been provided.

### SITE CHARACTERISTICS:

**Site Size:** 110.1 acre portion (150.1 acres)

**Surrounding Zoning;  
Land Uses:**

North:	Mining; Undeveloped
South:	AG; High, Middle and Elementary School Campus
East:	AG; Single Family, Mobile Homes
West:	AG; Single Family, Mobile Homes

**Current Zoning:** AG/(Agricultural)

**Future Land Use  
Map Designation:** Rural

**ENVIRONMENTAL REVIEW:**

**Soil Type:** Candler fine sand

**Comments:** 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 excavation, and a Florida Fish and Wildlife Conservation Commission permit may be required prior to site alterations.

Candler Fine Sand provides habitat suitable for gopher tortoises (a listed species) and commensal species. A comprehensive floral and faunal (wildlife) survey shall be prepared by a qualified professional during the construction plan approval stage of development. The petitioner is required to comply with all applicable FWC regulations and permitting.

Excavation may create an environment for nuisance exotic vegetative species to begin to grow in the disturbed areas. The petitioner must provide acceptable control measures to contain and eliminate any nuisance species.

**Hydrologic  
Features:** The subject property contains no wetlands but does contain a Special Protection Areas (SPA) according to County data resources.

**Comments:** Due to the mining designation of the property, it is considered a SPA under the Hernando County Regulations. It is petitioner's intent to change the zoning, corresponding application H2310, in order to remove and abandon the SPA. According to the petitioner, the lime rock layer beneath the clay has not been breached. A synthetic liner/barrier is proposed over the clay for the Class III landfill.

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

**SCHOOL BOARD REVIEW:**

The Hernando County School Board has indicated.

**UTILITIES REVIEW:**

The Hernando County Utilities Department has indicated they currently do not supply water or sewer services to this parcel. There is an existing 24-inch water main that runs along the west side of Sunshine Grove Road. There is an existing 16-inch sewer force main that also runs along the west side of Sunshine Grove Road. HCUD has no objection to the submitted request to extend the parcel's current Public Service Facility Overlay for construction and debris over to the eastern boundary of the mining portion of the property.

**ENGINEERING & TRANSPORT REVIEW:**

The site is located on the west side of Sunshine Grove Road, approximately 2,000' north of Ken Austin Parkway. The petitioner has indicated utilizing the existing access points for the project; furthermore, the existing roadway network is capable of accommodating the expansion, and no upgrades to signals or roadway network will be necessary due to the site's proposed traffic volume. The County Engineer has reviewed the request and indicated the following:

- The existing site is internally drained and has a permitted retention pond. No new impervious area is being added, no permit modification by Southwest Florida Water Management District.
- Explain how the Florida Department of Environmental Protection permit is incorporated into the expansion.
- Applicant to provide documentation that supports narrative statement that the existing roadway network is capable of accommodating the expansion, and that there will not be upgrades to signals or additional truck volume added to roadway networks.

**LAND USE REVIEW:**

The petitioner shall be subject to the following criteria prior to the approval of a public service facility overlay district for a construction and demolition debris landfill facility:

- (a) Have access to a roadway with a classification of no less than a two-lane collector which is designed to handle heavy truck traffic;

**Comments:** The subject site has direct access to Sunshine Grove Road.

- (b) Not be located within one thousand 1,000' of residentially zoned properties and schools;

**Comments:** The petitioner is requesting a deviation in the minimum setback/buffer from the required 1,000' to 200' in order to maintain the distance that has historically been provided.

- (c) Be compatible with the surrounding land uses:
  - (1) Shall not have a negative material impact on surrounding land uses,
  - (2) Shall not have a negative material impact on infrastructure, or

- (3) Shall not have negative material environmental impacts;
- (d) Not be located within any area containing hydric soils, as specified in the Soil Survey of Hernando County;
- (e) Not to be located within two hundred fifty 250' of the property line of any property zoned as one of the rural zoning districts not under control of the owner/operator of the construction and demolition debris landfill;  
**Comments:** The petitioner meets or exceeds the 250' requirement along the east and west.
- (f) Not be located within the 100-year floodplain; and,
- (g) Not create a vulnerable feature.
- (4) The following design criteria must be met prior to the approval of a public service facility overlay district for a construction and demolition debris landfill facility:
  - (a) The site shall have a minimum setback of seventy-five (75) feet from all adjacent property lines;  
**Comments:** The subject site has existing landfill and excavation activities and currently has 100' vegetative buffers along the north, east and west and a 200' buffer along the south. If approved these buffers must be maintained or enhanced to achieve 80% opacity.
  - (b) Access roads must be paved or stabilized with limerock or some other surface and be dust controlled;
  - (c) The site shall be completely fenced with a minimum six-foot-high security fence which must be locked during all hours when the construction and demolition debris landfill is closed;
  - (d) Have only one entrance;  
**Comments:** The subject site has a single existing access to Sunshine Grove Road.
  - (e) The site shall be buffered from adjacent properties with a fifteen-foot landscaped buffer of no less than eight (8) feet in height; and reach eighty (80) percent opacity within twelve (12) months;  
**Comments:** The subject site has existing landfill and excavation activities and currently has 100' vegetative buffers along the north, east and west and a 200' buffer along the south. If approved these buffers must be maintained or enhanced to achieve 80% opacity.
  - (f) Must comply with the provisions of the Groundwater Protection Ordinance; and,  
**Comments:** Due to the mining designation of the property, it is considered a SPA under the Hernando County Regulations. It is petitioner's intent abandon the SPA by rezoning the property from Mining to AG (Agriculture) (H2310). According to the petitioner, the lime

rock layer beneath the clay has not been breached. A synthetic liner/barrier is proposed over the clay for the Class III landfill.

- (g) Meet all other local, state and federal rules.
- (5) A construction and demolition (C&D) debris landfill facility shall meet the following operational standards:
  - (a) The owner/operator of a construction and demolition debris landfill shall be responsible for compensating the appropriate fire department for all expenses in the extinguishing or containing of a fire above the cost of an average fire call as determined by the Florida State Fire Marshal's *Output Report*:
  - (b) The owner/operator of a construction and demolition debris landfill shall provide the county with financial assurance, easily accessible to the county, in the amount needed for closure and care of the facility once closed not to be less than five (5) years. This financial assurance shall be in one of the following methods: a bond, insurance, irrevocable letter of credit, or cash. The financial assurance may be of co-obligation between the county and the Florida Department of Environmental Protection.
  - (c) The owner/operator of a proposed construction and demolition debris landfill shall provide to the county a copy of their Florida Department of Environmental Protection permit and/or any other such permits as required by the law, rule or regulation by any successor agency. If an owner/operator of a proposed construction and demolition debris landfill is unable to attain or is exempt from the Florida Department of Environmental Protection rules, the proposed landfill does not meet the requirements of this ordinance, and shall not be allowed to operate.
  - (d) All facilities receiving more than one hundred (100) tons per day, shall install scales to weigh incoming C&D debris. Facilities receiving less than one hundred (100) tons per day shall submit an alternate procedure for calculating daily waste, subject to approval by the county.
  - (e) Initial cover of six (6) inches of soil shall be applied and maintained in order to minimize adverse environmental, safety or health effects such as those resulting from birds, blowing litter, disease vectors, odors, or fires. The minimum frequency for applying cover is every two (2) weeks.
  - (f) A minimum of one C&D spotter (per FDEP standards) shall be present on site for each one hundred (100) tons, or part thereof, of C&D debris disposed per day.
  - (g) The Hernando County Waste Management Division will perform inspections at each privately owned C&D disposal facility no less than once per week. The purpose of these inspections will be to assess compliance with this ordinance and the Florida Department of Environmental Protection's rules and regulations, and to enforce the Hernando County Zoning Regulations.
  - (h) Inspection frequency by county employees shall be as follows:

Facility	Frequency
Accept less than 50 tons per day	Once a week
Accept 50—100 tons per day	Three times per week
Accept 100 tons or more per day	Five times per week

- (i) Owners/operators shall provide unrestricted access to their C&D disposal facilities for other county departments and personnel (code enforcement, sheriff's department, fire department) for compliance inspections.
- (j) Owner/operators shall maintain all records on-site for a minimum of three (3) years from the date of waste receipt. The following records shall be required:
  - Daily tons of C&D debris received.
  - Daily tons of C&D debris recycled and type (i.e., cardboard, concrete, wood, ferrous metal, etc.)
  - Name and address of the recycler or receiver of the recycled materials.
  - Daily tons of C&D debris disposed at the site.
  - Daily tons of rejected waste, type of waste, and the disposal location of the rejected waste.
- (k) Owner/operators shall submit a quarterly report summarizing the above information to the Hernando County Waste Management Division on the fifteenth of the next month following each quarter (April 15th, July 15th, October 15th, and January 15th).
- (l) Owner/operators shall submit a copy of the FDEP-required ground water monitoring well analyses to the Hernando County Waste Management Division after each sampling event.
- (m) Owners/operators shall pay a regulatory fee to the county for each ton of C&D debris received, except for tons that are recycled and rejected. The fee shall be deposited into the Construction and Demolition Debris Revenue Account. The revenue generated by this regulatory fee will fund the cost of county inspections, and the remainder will help pay for any future cleanup costs resulting from C&D disposal facilities or illegal dumping sites.
- (n) C&D disposal facility owners/operators shall pay the total regulatory fee due each month to the county no later than thirty (30) days following the end of each calendar month.
- (o) The amount of the regulatory fee shall be established by resolution of the board.

**COMPREHENSIVE PLAN REVIEW:**

The subject site is located within the Mining Future Land Use Designation on the County's adopted Comprehensive Plan. The area is characterized by Mining and a landfill to the north and a school campus to the south.

**Mining Category**

**Objective 1.04I:** The Mining Category allows mining and ancillary mining activities with an overall average gross floor area ratio of 0.50, and co-location of mining support-related or industrial uses which consume mining products where mining occurs. Agricultural uses are also allowed.

**Comments:** The proposed use is consistent with the Comprehensive Plan Mining Category.

**FINDINGS OF FACT:**

The Expansion of a Public Service Facility Overlay District (PSFOD) with deviations is appropriate based on the following conclusion:

1. The petitioner's request for a reduction in distance from schools from the required 1,000' to 200' is justified due to the historic use of the property. The existing 200' buffer along the south shall be maintained or enhanced to achieve 80% opacity.
2. The request is consistent with the County's adopted Comprehensive Plan and is compatible with the surrounding land uses subject to compliance with all performance conditions.

**NOTICE OF APPLICANT RESPONSIBILITY:**

*The rezoning process is a land use determination and does not constitute a permit for either construction on, or use of, the property, or a Certificate of Concurrency. 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. Homeowner 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 recommend the Board of County Commissioners adopt a resolution approving the petitioner's request for an Expansion of a Public Service Facility Overlay District (PSFOD) with Deviations and with the following performance 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. A wildlife survey shall be prepared by a qualified professional at the time of conditional plat approval. The petitioner is required to comply with all applicable FWC regulations.
3. The petitioner shall be required to remove and abandon the existing Special Protection Area (SPA).
4. A synthetic liner/barrier shall be placed along the entire landfill area to prevent leeching.
5. The petitioner shall be required to obtain and maintain all applicable permits complying with all current requirements of the Florida Department of Environmental Protection (FDEP) and all other state agencies having regulatory jurisdiction over the design, construction and operation of landfill.
6. The petitioner shall provide a plan for the control of fugitive dust.
7. The petitioner shall meet the requirements as identified by Rule 62-701, F.A.C., for a Class III landfill.
8. The petitioner shall provide documentation to the County Engineer, indicating the existing roadway network is capable of accommodating the expansion, and that there will not be upgrades to signals or additional truck volume added to roadway networks.
9. Minimum Buffers/Setbacks:
  - North: 100'
  - East: 100'
  - West: 100'
  - South: 200'
10. All existing buffers shall be maintained and enhanced to achieve 80% opacity, including but not limited to the southern buffer against the schools.



**P&Z ACTION:**

On September 11, 2023, the Planning and Zoning Commission voted 5-0 to recommend the Board of County Commissioners postpone the petitioners request for an Expansion of a Public Service Facility Overlay District (PSFOD) in order to readvertise the request for deviations.

**P&Z ACTION:**

On October 9, 2023, the Planning and Zoning Commission voted 4-1 to recommend the Board of County Commissioners adopt a resolution approving the petitioner's request for an Expansion of a Public Service Facility Overlay District (PSFOD) with Deviations and with the following modified performance 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. A wildlife survey shall be prepared by a qualified professional at the time of conditional plat approval. The petitioner is required to comply with all applicable FWC regulations.
3. The petitioner shall be required to remove and abandon the existing Special Protection Area (SPA).
4. A synthetic liner/barrier shall be placed along the entire landfill area to prevent leeching.
5. The petitioner shall be required to obtain and maintain all applicable permits complying with all current requirements of the Florida Department of Environmental Protection (FDEP) and all other state agencies having regulatory jurisdiction over the design, construction and operation of landfill.
6. The petitioner shall provide a plan for the control of fugitive dust.
7. The petitioner shall meet the requirements as identified by Rule 62-701, F.A.C., for a Class III landfill except that asbestos-containing material shall be deemed unauthorized waste.
8. The petitioner shall provide documentation to the County Engineer, indicating the existing roadway network is capable of accommodating the expansion, and that there will not be upgrades to signals or additional truck volume added to roadway networks.
9. Minimum Buffers/Setbacks:
  - North: 100'
  - East: 100'
  - West: 100'
  - South: 200'
10. All existing buffers shall be maintained and enhanced to achieve 80% opacity, including but not limited to the southern buffer against the schools.
11. The petitioner shall coordinate with the Hernando County School District and the Hernando Planning Division to identify an appropriate buffer and setback to mitigate any impacts to the schools adjacent to the subject site.