

SEPTEMBER 26, 2007

The Hearing Officer, Manatee County, Florida, convened a REGULAR HEARING in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Wednesday, September 26, 2007, at 3:00 p.m.

Presiding was: John Roe

Also present were:

Jason Henbest, Assistant County Attorney
Susan Romine, Board Records Manager,
representing R. B. Shore, Clerk of Circuit Court

All witnesses and staff giving testimony were duly sworn.

AGENDA

The agenda of September 26, 2007, and update memorandum.

[HO20070926DOC001](#)

(Court Reporter, Penny Zuker, present)

SPECIAL PERMIT

Public hearing (Notices published) was held to consider

SP-07-02 LAKE VERNA LLC/LAKE ST. CLAIRE BORROW PIT

Request: Approval of a Special Permit for major earthmoving in the A (General Agriculture) zoning district. The site is on ±727.35 total acres; ±250 project acres on the south side of S.R. 70, east of Verna Road and the NE Sarasota County Line, and extends south to the Magnolia Hills subdivision.

If approved, staff recommended 20 Stipulations.

Erika Barrett, Planning Department, used a slide presentation and a site plan to review the request. She discussed surrounding development, which is mostly agricultural, and noted there are no wetland impacts proposed. She reviewed **Stipulation 4** limiting the hours of operation to between 7:00 a.m. and 4:00 p.m. Monday through Saturday to address noise and truck traffic concerns. The applicant is requesting a 6:00 a.m. start time, which raises concern as trucks tend to line up earlier.

Ms. Barrett submitted a written record of phone calls from two adjacent residents, **George Aleck** voicing concern of noise, hours of operation, prohibiting truck access to 284th Street East, and impacts to the eagle's nest on subject property; and **Ryan Summer** questioning the status of the previously approved subdivision.

Ms. Barrett responded that the truck route was being established as north out of the site onto S.R. 70. She referred to Exhibit 1 depicting the location of the eagle's nest and noted the Natural Resources Division would address this issue by Stipulation. She read proposed change to **Stipulation 2** by the County Attorney to address the previous plat approval:

2. Should the earthmoving operations of the borrow pit (including, for example, digging operations but not merely truck traffic) extend to the lands encompassed by Preliminary Plat 05-S-85(P) approved for the property on February 2, 2007, or impact the design of the interior roadway, such approval of the Preliminary Plat automatically shall be null and void, and a new or amended Preliminary Plat will be required before any further plat approvals.

Joel Christian, Natural Resources Division, stated he visited the site to view the nest and could not determine if it is an eagle's nest. He noted the nest is not shown on the U.S. Fish and Wildlife Service (USFWS) database. A stipulation is being formulated to request a study to be completed prior to the Operating Permit so the permit can be conditioned to meet the management guidelines of USFWS, which requires a 660-foot buffer from the tree.

Discussion: **Stipulation 21** by the applicant; eagle management plan prior to land activities; etc.

Misty Servia, of King Engineering representing the applicant, stated this is primarily an agricultural area. She referred to a site plan to review the borrow pit, which comprises 250 acres of the 727.35-acre site. The nearest earthmoving activity will be 530 feet from the property boundary. The number of proposed daily trips is 450, which is supported by a traffic study. The applicant is making significant improvements to S.R. 70 in terms of acceleration and deceleration lanes to avoid traffic issues at the entrance. A reclamation plan has been submitted and the applicant will file for an Operating Permit upon approval of the Special Permit.

Ms. Servia requested amendment to **Stipulations 2** and **4** as follows:

2. Should the earthmoving operations of the borrow pit (i.e. excavation or digging), impact the design of the roadway shown on the Preliminary Plat [05-S-85(P)], approved February 2, 2007, such plat shall automatically be rendered null and void, and a new or revised Preliminary Plat shall be required before any additional plat approvals are granted.
4. Hours of operation shall be limited to between 6:00 a.m. and 4:00 p.m., Monday through Saturday.

Discussion: Clarification of Stipulation 2; the preliminary plat was for a rural subdivision, which approved the roadway, not the lots; review plat approval; etc.

In regard to the eagle's nest, Ms. Servia noted their concern of protection of the same. She stated the required environmental analysis study did not identify an eagle's nest. Due to lack of definitive information at this time, Ms. Servia requested amendment of **Stipulation 21** to enable the applicant to move forward with the Special Permit and file for the Operating Permit. The applicant will not impact the eagle's nest and has indicated willingness to provide the mandated buffer of 660 up to 1,000 feet including the necessary survey.

Discussion: Applicant would like to move forward and begin excavation; County would prefer the completion of the study prior to approval of the Operating Permit; delay of project while the study is being conducted; determination if it is an active eagle's nest requires observation for a period of time; mating season for eagles begins the first of October through May; time period for observation is not known; resolve issue regarding Stipulation 21; etc.

Dan Spencer expressed concern regarding the project elevation due to stormwater issues; however, following discussion with the applicant this issue was resolved.

Richard Apati, Saddlebag Ranches, stated that the County had previously denied the Cloverdale Farms crushed concrete project due to increased traffic for non-agricultural use. He voiced concern regarding traffic and stated 450 trips would be approximately one truck trip per minute. He indicated the residents were not in favor of the 6:00 a.m. operation time.

Joshua Grubbs, adjacent resident, voiced concern regarding noise and hours of operation especially on Saturday. He stated that he has witnessed eagles on this site.

Discussion: Trucks at borrow pits are on site and lined up prior to operating hours; County recommends they deal with the eagle's nest prior to Operating Permit; no heavy equipment should be on site prior to the study; etc.

Mr. Christian submitted **Stipulation 21**. Hearing Officer Roe read **Stipulation 21** into the record and clarified agreement between the County and the applicant:

21. There is a potential Bald Eagle nest located within this project. The developer shall provide an update study, consistent with Comprehensive Plan Policy 3.3.2.3, for threatened and endangered plant and animal species prior to any Operating Permit approval within 1,000 feet of the potential nest tree identified on Exhibit 1. If the updated study identifies the presence of a Bald Eagle's nest, the nest shall be fully protected in accordance with the National Bald Eagle Management Guidelines, as amended and implemented by U.S. Fish and Wildlife Service. Any required setbacks shall be identified on the Operating Permit.

Upon clarification of agreement between the County and the applicant, Ms. Servia read amended Stipulation 2:

2. Should the earth moving operations of the borrow pit (i.e. excavation or digging), impact the areas shown as interior roadways on the Preliminary Plat [05-S-85(P)] approved February 2, 2007, such plat shall automatically be rendered null and void, and a new or revised Preliminary Plat shall be required before any additional plat approvals are granted.

Ms. Servia addressed the amended hours of operation. Regarding noise, she indicated this is presently an agricultural area with agricultural trucks, machines, and noise. She indicated an area on the site will be provided for queued trucks.

Discussion: Hours of operation not resolved; traffic concerns; etc.

Mr. Grubbs disputed the noise issue stating the area is extremely quiet. He questioned when a project of this size would be completed and discussed the S.R. 70 traffic concerns.

Robert Pederson, Planning Department, submitted a draft Notice of Intent and Final Order.

Public hearing (Notices published) was held to consider

SP-07-01 SICILIANO'S RESTAURANT

Request: Approval of a Special Permit to allow 2 COP sales of alcohol at Siciliano's Restaurant. The site is on (±.53 acres) in the GC (General Commercial) zoning district at 6103 14th Street West.

If approved, staff recommended 6 Stipulations.

Erika Barrett, Planning Department, used a slide presentation and site plan to review the request. She stated 2 COP sales of alcohol include beer and wine, and noted that no alcohol beverages or food will be sold or consumed outside. Special Permit approval is required due to the location of a mobile home park to the east.

Discussion: Applicant requested amendment to **Stipulation 3** regarding hours of operation to accommodate serving Sunday lunch; 10:00 a.m. would accommodate brunch; include choice now rather than request an amendment at a later time; open all days at 10:00 a.m.; etc.

Marie McCaughan, representing the applicant, stated a restaurant has been on this site for several years and there have been no negative comments from residents of the mobile home park; in fact, they have requested a gated fence to enable access to the restaurant.

Ms. McCaughan requested an amendment to **Stipulation 3** for operating hours to begin at 10:00 a.m. Monday through Sunday. She also requested clarification of **Stipulation 4**.

Jason Henbest, Assistant County Attorney, combined amended **Stipulation 4** and **Stipulation 5** to read:

4. Onsite beer and wine service are approved as accessory to the restaurant's food service operations. This Special Permit for a 2-COP alcoholic beverage license is approved for Siciliano's Restaurant and shall automatically terminate if the restaurant ceases operations.

Stipulation 6 was renumbered as **Stipulation 5**.

Mr. Pederson, Planning Department, submitted a draft Notice of Intent and Final Order.

HEARING ADJOURNED

There being no further business, the hearing was adjourned.

Adj: 3:52 p.m.
/njh

Minutes Approved: November 21, 2007