

DECEMBER 22, 2008

The Hearing Officer, Manatee County, Florida, convened a REGULAR HEARING in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, at 2:00 p.m.

Presiding was: H. Hamilton "Chip" Rice, Jr.

Also present were:

Sarah E. Schenk, 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 December 22, 2008, agenda update memorandum, and sign-in sheet.

[HO20081222DOC001](#)

SPECIAL PERMIT

Public hearing (continued from 10/6/08) was opened to consider

SP-07-09 FOREST GLEN PROPERTIES LLC/FVP FLORIDA DEVELOPMENT LLC – FOREST GLEN BORROW PIT

Request: A Special Permit for major earthmoving in the A zoning district. The site is on the south side of S.R. 64 bordering the Manatee County/Hardee County Line at 46850 S.R. 64, Myakka City (±553.14 acres total site).

If approved, staff recommended Stipulations.

Mr. Rice acknowledged the updated agenda memorandum with multiple changes, and questioned whether all parties had received the update.

Robert Pederson, Planning Department, confirmed staff had received the updated agenda memorandum earlier in the day. Environmental Planning staff will be present to address any concerns; however, the Health Department representative was not present, and one of the Stipulations is in regard to a Health Department requirement.

Misty Servia, King Engineering, noted the applicant's representatives submitted the revised stipulations and received, via e-mail, the first update regarding two changes to the staff report. The letters from the public were received as the meeting began.

Ms. Servia noted prior submission of the revised stipulations in the agenda package as well as a letter from the Department of Historic Resources for the State of Florida, submitted prior to the meeting. An aerial was displayed to point out the location of the project on the south side of S.R. 64 at the Manatee/Hardee County line. The eastern boundary borders Roy Moore Road, which is a public road in Hardee County. The site is 553 acres, but the project area is only 144 acres. The Special Permit application has been under review for 18 months. The site is not in the Peace River Watershed Overlay District but may be in the Peace River Watershed proper. The borrow pit is a short term project of approximately two years and will result in two large lakes when the project has concluded.

Ms. Servia explained the access was originally planned from Roy Moore Road, but after review, a decision was made to access the project from S.R. 64. Truck stacking will be on the internal roads and will not queue on S.R. 64. A turn lane will be built on S.R. 64, as required by the Florida Department of Transportation (FDOT) and will be permitted before operations begin. She outlined the traffic circulation of one- and two-way roads on the site. The traffic study has been approved.

Ms. Servia stated the site is currently a sod farm and used for grazing cattle. Borrow pits, wetlands, and wetland buffers were identified, and rain gauges and monitoring wells will be maintained throughout the site. There will be no impact to on-site wetlands. Although some discussion has been held that a portion of the Cracker Trail is on this site, thorough review has indicated no such evidence.

This request is consistent with the AG/R Future Land Use Category and is within the range of potential allowed uses. It is also consistent with Section 732 of the Land Development Code. Staff recommended stipulations, with applicant changes, which were submitted and discussed. **Stipulation A.5** regarding no borrow pit activity on holidays was requested to be specified for New Years Day, Labor Day, the 4th of July, Memorial Day, Thanksgiving, and Christmas.

Erika Barrett, Planning Department, narrated a slide presentation with a review of the location, zoning, special permit request, total area, open space, and wetland areas. A site plan was displayed showing existing wetland areas in green and the proposed borrow pit areas in yellow. The existing farm road will continue to be used and runs through the wetland area, but there will be no new wetland impacts. Access roads were pointed out, and it was noted the project will be completed in two phases. There is 476 feet of separation between the haul road and the residential property to the north. Noise and truck traffic were concerns, and a stipulation was recommended to limit operating hours from 6:00 a.m. to 4:00 p.m., Monday through Saturday, with no hauling on holidays. Numerous e-mails were received from concerned neighbors, and subsequent changes to the site plan were made by the applicant.

Ms. Barrett addressed proposed applicant stipulations as follows:

- A.4** The applicant added language regarding issue of a new operating permit to extend operation dates with no Planning Department review. Operating permits, they are handled administratively, so this stipulation would take away the ability to review any negative impacts on surrounding properties. She suggested the stipulation remain as written.
- A.5** Staff had no objection to the change to include some specific holidays.
- A.6** Language was added to have no dump truck access via Roy Moore Road. Staff recommends including no heavy equipment access.
- A.10** Staff recommends using language from the letter from the Division of Historic Resources as the new stipulation. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools, or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, the permitted project should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The permittee, or other designee, should contact the Florida Department of State, Division of Historical Resources, Review and Compliance Section Act (850)245-6333 or (800)847-7278, as well as the appropriate permitting agency office. Project activities should not resume without verbal and/or written authorization from the Division of Historical Resources. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, Florida Statutes.
- C** **Stormwater Conditions.** Staff agreed with applicant changes.
- D** **Environmental Conditions.** Staff does not support the changes in **D.3.**, or **D.4.**
- E.2** Staff recommended keeping the stipulation as written since it was specifically requested by the Health Department.

Mr. Rice requested a revised copy of the stipulations as recommended by staff.

Discussion: Direction trucks will be hauling dirt on S.R. 64; more traffic and impact to the west; road improvements; most hauling will go west from the site; traffic study; 600 trucks per day; etc.

Mr. Pederson clarified the project is in the Peace River Watershed Comprehensive Plan Overlay, as indicated in the staff report. Standard criteria for projects in watershed overlays prohibit all new mineral resource extraction and associated processing activities other than sand, shell, and gravel. There is a prohibition of newly proposed, non-residential, non-agricultural development in the watershed overlay, which requires an operating permit as referenced in 62.4 FAC, unless developments are reviewed as Special Approvals and it is established that the development shall not cause the degradation of the water quality at the watershed of Lake Manatee, Evers, or Peace River as appropriate, and shall not cause any adverse impact on water quality within these districts. He stated there are other applicable policies.

Discussion: Environmental Resource Permit (ERP) issued by FDEP and a modification is pending; County vs. FDEP requirements; Public Works Department is in charge of traffic study; etc.

Mr. Pederson noted the traffic study in the staff report shows 50 percent of the trips will be eastbound on S.R. 64, 25 percent will be westbound on S.R. 64, and 25 percent will be northbound on Duette Road.

Ms. Servia explained the borrow pit will provide fill to Little Cypress, in Hardee County, proposed to have 900 dwelling units.

Sandra Gorman, King Engineering, noted the traffic study began in May 2007, and truck distribution was based on three items: where the fill would be sold; existing area travel patterns; and demand and location of other local borrow pits. All the roadways in the study area are currently operating at Level of Service "B" or better.

Susan Carlton, neighboring property owner, opposed the project and expressed concern for wetland impact with 600 trucks entering the site daily. She also noted the impact of trucks idling on the site, noise from sump pumps, and traffic noise. She questioned whether Manatee County has a contract with the company for landfill cover.

Buddy Roberts, neighboring property owner, opposed the project and questioned where fill was placed in a wetland area for a roadway. He pointed out the roadway in question on the site plan. He also questioned whether deceleration lanes would be placed in both directions of S.R. 64.

Ms. Servia stated the roadway is an existing, agricultural, farm road that does not connect to S.R. 64.

Mr. Pederson displayed the aerial from the staff report to denote the exact location of the roadway.

Discussion: Wetland infill; no planned improvement to the existing roadway; etc.

Dorothy Rainey, Planning Department, noted reviewing the roadway information and stated there will be no additional impacts since the road will be used as is, with no improvements.

Mr. Roberts stated the roadway has already been improved with fill dirt and it impacts the wetlands. The road does not connect to S.R. 64, but there is concern the roadway will be improved and eventually connect if the project is approved.

Mr. Pederson explained there are no stipulations related to concurrency for this project. The staff report stipulation is for a westbound left turn lane on S.R. 64 which would be a center turn lane as required by FDOT. The deceleration lane would be established prior to the start of the project.

Denise Greer, King Engineering, provided a copy of the existing Southwest Florida Water Management District (SWFWMD) permit for the roadway through the wetland area. The agriculture section of SWFWMD has reviewed the roadway. It is classified as a permit exemption.

John Long, area resident, expressed concern regarding the shallow wells and the fact they may go dry when the lakes are dug. He questioned if there was an existing surety bond or some kind of guarantee for recourse if the wells go dry. He confirmed the existing road discussed earlier, was just a jeep trail, has had dirt added to improve it, and will not support 600 trucks per day.

Discussion: Noise issue has been addressed; hours of operation; trucks lining up on the roadway; dewatering pumps running; distance of pumps from surrounding properties; etc.

Justin Blalock, area resident, opposed the project and questioned noise abatement issues discussed at a neighborhood meeting regarding trees and berms. He requested no permit extensions without additional approvals; year-round well monitoring; even disbursement of well locations; mitigation requirements; and control of air discharges. He requested limited access to Roy Moore Road.

Daniel Moore, area resident, questioned if a traffic study had been done for Roy Moore Road to determine if employee access will significantly increase traffic.

Thomas Benbow, area resident, opposed the project and stated his concerns had been addressed.

Ms. Servia stated most of the resident concerns have been addressed. Stipulations will limit the hours of operation and will require adverse impact standards to be addressed prior to issuance of the Operating Permit. The distance of the haul road from the closest home is twice as far as the home is from S.R. 64, where there is more traffic and noise. **Stipulation A.8** addresses buffering the dewatering pumps, and silt screens are in place for the wetlands. A westbound left turn lane will be added to S.R. 64, and the applicant is suggesting the borrow pit gate be opened at 5:00 a.m. for truck queuing on site instead of on S.R. 64. The recommended change for **Stipulation D.3** would be for inspection of the silt screens. The Operating Permit is detailed and technical and once issued, County inspectors will be on site regularly. Suggested language for **Stipulation A.4** would be to add "all earthmoving activities...February 2013, unless a new Operating Permit is issued in accordance with Section 732.5 of the LDC, after review by the Planning Department." The applicant is requesting **Stipulation A.6** language remain as proposed. Since there are no public supply wells on site, there is no objection to leaving the language regarding them in **Stipulation E.2**.

Chris Wright, King Engineering, submitted a copy of the water use permit for the wells issued in April by SWFWMD. Two independent models were used to assess the potential impacts to adjacent properties. A hydraulic barrier will be in place, and water will be circulated throughout the property instead of discharged. The maximum excavation depth will be 35 feet. A condition of the permit requires the project to stop and begin remediation if there are any adverse impacts to adjacent property supply wells.

Sam Johnston, King Engineering, explained the component for hydraulic modeling and monitoring associated with the ERP. Weekly monitoring is required while the pits are being de-watered, and any water level readings that fall below the minimum water table must be reported within seven days. Measures will be taken to prevent hydrologic impact to adjacent wetlands.

Ms. Gorman confirmed the turn lane is required by FDOT and will be over 400 feet long. The traffic study for Roy Moore Road did not account for employee trips, but it is anticipated six to ten employees will access the road besides the sod business employees already using the road. The original traffic study evaluation projected 60 vehicles during peak hours with no adverse impacts to Roy Moore Road.

Recess/Reconvene.

Mr. Rice announced he would need more information to make his decision and the hearing would be continued to January 21, 2009, at 10:00 a.m. He requested information on environmental issues at that time from Neal Parker and Rob Brown of the Natural Resources Department.

HEARING ADJOURNED

There being no further business, the hearing was adjourned.

Adj: 3:44 p.m.
/mh

Minutes Approved: January 16, 2009