

SPECIAL PERMIT NO. SP-04-07
SEMPER FI DEVELOPERS, LLP/MYAKKA BORROW PIT

CLERK OF THE DISTRICT COURT
MANATEE CO. FLORIDA

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FINAL ORDER OF MANATEE COUNTY HEARING OFFICER MARK D. SINGER, ON BEHALF OF MANATEE COUNTY, GRANTING SPECIAL PERMIT NO. SP-04-07, TO ALLOW MAJOR EARTHMOVING IN THE A (GENERAL AGRICULTURE) ZONING DISTRICT ON THE SOUTH SIDE OF S.R. 64 EAST, BETWEEN S.R. 64 EAST AND MYAKKA WAUCHULA ROAD (+/- 98.25 ACRES); PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 90-01, as amended; and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 90-01, as amended, Mark D. Singer, as Hearing Officer, has the authority to grant Special Permits; and

WHEREAS, Semper Fi Developers, LLP requested a Special Permit to allow major earthmoving for a borrow pit in the A (General Agriculture, 1 dwelling unit per 5 acres) zoning district; and

WHEREAS, on July 13, 2005, the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit for major earthmoving.

NOW, THEREFORE, after consideration of the application for Special Permit No. SP-04-07 requested by Semper Fi, LLP the aforementioned Hearing Officer makes the following Findings of Fact and Conclusions of Law and issues the Final Order as follows:

Section 1. Findings of Fact. The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation and staff report presented, as well as all other matters presented at the Public Hearing above referenced, hereby makes the following Findings of Fact:

- A. This site is currently a citrus grove and zoned A (General Agriculture, 1 dwelling unit per 5 acres).
- B. Proposed earthmoving operations are temporary in nature and will ultimately result in the creation of a large lake on this site, once reclamation is completed.
- C. This property is zoned A which allows major earthmoving with approval of a Special Permit pursuant to Section 708.3.3, of the Land Development Code.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, and a review of the applicable provisions of the Manatee County Comprehensive Plan and Manatee County Land Development Code, the aforementioned Hearing Officer hereby makes the following Findings of Law:

- A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to the Land Development Code.
- B. The applicant has the burden of proving entitlement to the Special Permit it seeks. Irvine v. Duval County Planning Commission, 495 So.2d 167 (Fla. 1986); Florida Department of Transportation v. J.W.C. Company, Inc., 396 So.2d 778 (Fla. 1st DCA 1981).
- C. The proposal is compatible with the area and can be found to be consistent with the Comprehensive Plan and the AG/R (Agricultural - Rural) Future Land Use Category.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to Semper Fi Developers, LLP for the property located at 42750 – 43020 SR 64 E and 4940 – 4964 Wauchula Rd, and more particularly described in Exhibit "A" attached hereto and incorporated herein, for major earthmoving, subject to the following conditions:

- A. This Special Permit will not be effective until the applicant has recorded it in the Public Records of Manatee County, Florida and a copy of the recorded Order is received by the Planning Department.
- B. The Earthmoving site plan submitted with this application shall be part of this approval.
- C. Prior to the commencement of the earthmoving operation, an Operating Permit shall be applied for and issued, pursuant to Section 732.5.1 of the Land Development Code. The Operating Permit shall be issued for a term not to exceed five (5) years.
- D. The engineer of record shall provide additional performance level details of the detention/clarification facility with the Operating Permit.
- E. Signs shall be provided adjacent to the wetland buffer and conservation easements indicating that the area is a Conservation Area, as required pursuant to Section 719.11.1.3.3 of the LDC. The type and location of such signs shall be shown and approved with the Operating Permit.
- F. A Well Management Plan for the proper abandonment of all unused wells and for the protection of wells to be retained on-site shall be submitted to the EMD for review and approval with the Operating Permit. Water Use Permits and proposed

modifications shall be included.

- G. In accordance with the setback requirements set forth in Section 732.5.7.1 all earthmoving activities for the creation of the borrow pits and sump areas shall be setback a minimum of fifty (50) feet from the applicant's property lines, unless a lesser setback is permitted pursuant to Section 732.5.7.3 by the Public Works Director. Any existing citrus trees within the setbacks shall remain until completion of all excavation activities associated with this approval.
- H. Hours of operation shall be limited to between 7:00 a.m. and 7:00 p.m., Monday through Saturday. Dewatering pumps shall be either located below the rim of the borrow pits and sump areas or enclosed within a structure. At all times, the applicant shall comply with all applicable Manatee County sound regulations.
- I. The maximum number of hauls trips for any 24-hour period shall be limited to 100. The haul route shall be as follows:

All trucks will exit northbound and will turn right (eastbound) or left (westbound) onto S.R. 64 and proceed east or west to their destination.

Appropriate warning signs pertaining to such ingress and egress shall be installed on S.R. 64, subject to approval by the Florida Department of Transportation.
- J. All earthmoving activities, including all excavation and reclamation, shall be completed by June 2008.
- K. The maximum depth of the borrow pit shall be 25 feet. There shall be no aggregate, sorting, screening, or washing, or asphalt processing or aggregate recycling associated with this request.
- L. Final engineering drainage design must be approved prior to issuance of the Operating Permit.
- M. Prior to approval of the Operating Permit, the Engineer of Record/Architect must provide documentation to prove that concurrency has been met relative to fire flow per Section 9.6.1.4 of the Comprehensive Plan.
- N. Prior to approval of the Operating Permit, the Engineer of Record shall demonstrate compliance with Adverse Impact Performance Standards of the Land Development Code.
- O. An Exotic Plant Species Management Plan shall be submitted for review and approval prior to Final Site Plan approval. The management plan shall provide for the continued, phased, removal of nuisance, exotic plant species for the life of the project in accordance with Section 715.4 of the LDC.

- P. Construction is not authorized with this approval. Prior to commencement of construction or land clearing, an Erosion and Sediment Control Plan (ESCP) shall be submitted to the Natural Resources Division for review and approval pursuant to Section 508.3.4.7.j. of the LDC. Final Site Plans, Construction Plans, ERP and NPDES permit approvals must be obtained prior to submittal of the ESCP. Construction or land clearing is not authorized until an ESCP has been approved by the Natural Resources Division and all required meetings have been completed.

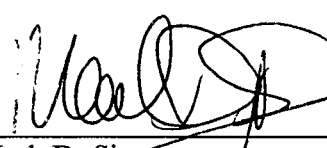
Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by courts of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Special Permit which shall remain in full force and effect.

Section 5. Effective Date. The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of the Clerk of the Circuit Court and receipt of a copy of the recorded Order by the Planning Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 24TH day of AUGUST, 2005.

MANATEE COUNTY, FLORIDA

BY:


Mark D. Singer, as
Hearing Officer for Manatee County

ATTEST: R.B. SHORE
Clerk of the Circuit Court

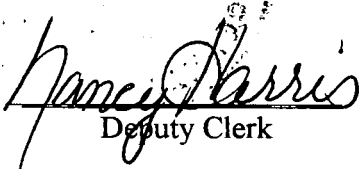

Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION:

FM NE COR OF NE ¼ SEC 25 RUN S 00 DEG 10 MIN 58 SEC E ALG E LN OF SD NE 1/4 A DIST OF 25 FT & S 89 DEG 51 MIN 50 SEC W A DIST OF 50 FT TO W R/W/L OF U S HWY 301; & CONT S 89 DEG 51 MIN 50 SEC W ALG S R/W/L OF WHITFIELD AVE A DIST OF 805 FT; S 00 DEG 04 MIN 10 SEC E A DIST OF 17 FT TO SE COR OF LAND REC IN OR 1090 P 1199; & S 89 DEG 51 MIN 50 SEC W A DIST OF 122.18 FT TO POB; TH CONT S 89 DEG 51 MIN 50 SEC W A DIST OF 356.34 FT TO INTERSECT WITH W LN OF N ½ OF N ½ OF NE ¼ OF NE ¼; TH S 00 DEG 09 MIN 03 SEC E A DIST OF 290.48 FT; TH N 89 DEG 55 MIN 45 SEC E ALG S LN OF N ½ OF N ½ OF NE ¼ OF NE ¼ & ALG N LN OF " IDLE WILD COURT" A DIST OF 254.35 FT; TH N 00 DEG 11 MIN 02 SEC W A DIST OF 188.48 FT; TH N 01 DEG 01 MIN 28 SEC E A DIST OF 102.42 FT TO POB; SUBJ TO EASMT AS DESC IN OR 1089 P 3686

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION