

STAFF REPORT

Planning & Zoning Commission: November 18, 2002
Board of County Commissioners: December 17, 2002

APPLICANT: S & R Construction Company **FILE NUMBER:** CU-02-16

PURPOSE: Conditional Use Permit for a Temporary Use of an Air Curtain Incinerator

GENERAL LOCATION: East side of Kettering Road, south side of Dashbach Street

LEGAL DESCRIPTION: A portion of Section 16, Township 23 South, Range 21 East, Hernando County, FL

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 3 PETITION AGAINST: 1 with 14 signatures

STAFF FINDINGS:

Surrounding Zoning

North: PDP(IND)
South: AG
East: AG
West: AG

Surrounding Land Uses

Agriculture
Agriculture
Agriculture
Agriculture

SUMMARY OF REQUEST

The petitioner has submitted a request for a conditional use permit for a temporary air curtain incinerator. The subject property is located on the east side of Kettering Road and on the south side of Dashbach Street.

FINDINGS OF FACT

1. The property is currently zoned AG.
2. The subject property consists of approximately 30 acres.
3. Access to the site is via Kettering Road.
4. The subject property is within a planned development land use classification on the adopted Future Land Use Map.
5. The on-site soil types are Arredondo fine sands and Candler fine sands. The soils and habitat are suitable for gopher tortoises. Since there is the potential for this listed species of special concern to be present, a Florida Fish and Wildlife Conservation Commission permit may be required prior to site development.
6. The property is located in a flood zone C.
7. The County's generalized mapping indicates the subject property contains no wetlands, WHPAs or SPAs.

8. The Utilities Department has indicated that central water and sewer are not available to serve the subject site.
9. There are adequate public facilities available to serve limited development on the subject property.

STAFF DISCUSSION

The applicant is requesting a Conditional Use Permit (CUP) for a period of two (2) years in order to operate a temporary air curtain incinerator. Conditional use permits may be renewed or extended upon reapplication at the end of a two year period.

The petitioner's narrative indicates the company receives clearing debris at the site and distributes approximately 70% of the material to lumber mills and seeks the conditional use permit in order to incinerate the remaining 30%. The petitioner proposes operating the incinerator approximately 10 hours per week.

The petitioner has indicated in a supplementary narrative that the proposed incineration operation is a service to be provided to multiple clients, rather than for one specific project. The petitioner indicates the use of the incinerator is intended to be completed by the end of the approved two year period. The petitioner estimates that approximately 2 to 12 trucks per day will deliver material to the site; approximately 30% of the material delivered will be incinerated. The petitioner has indicated green wood from clearing debris is to be incinerated. The petitioner indicates the incinerator will be in operation during daylight hours per the regulations of the Division of Forestry. The petitioner indicates the incinerator is powered by a four cylinder diesel engine which is comparable to the noise generated by a farm tractor in idle mode. The proposed operation must meet the noise ordinance.

In 1998 a conditional use permit for an excavation operation to remove and sell dirt was approved on the subject property for five (5) years with the following performance conditions:

1. The petitioner must maintain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including receiving DRC approval of the proposed use.
2. Access to the site shall be from Kettering Road only.
3. The petitioner shall revise the agreement with the County for the maintenance of Kettering Road from the south end of the pavement to the petitioner's access to reflect reapproval of the conditional use permit. The petitioner must receive BCC approval for the agreement.
4. The petitioner shall obtain an excavation permit from the Development Department.

The site abuts Kettering Road, which is designated in the County's adopted Comprehensive Plan as a minor collector roadway. Currently, Kettering Road is improved only from Cortez Boulevard south to the Wal-Mart Distribution Center. The proposed location for the air curtain incinerator is located further south on an unpaved portion of the road.

A DEP air construction permit will be required for the site as required under 62-296.401(7) FAC. The facility will also have to comply with Federal Rule Title 40, New Source Performance Codes (CFR Part 60, subpart CCCC). The Federal regulations have been adopted by the state (under 62-204.800 (7) FAC). The facility may be required to comply with DEP solid waste regulations regarding the debris storage piles. Once constructed, the facility will be required to obtain an air operating permit. Any fuel stored on-site for the incinerator will also be required to meet DEP/County codes.

The Assistant Utilities Director verbally indicated the proposal would reduce impacts to the County landfill and consequently she did not object to the petitioner's request.

Air curtain incinerators are typically operated temporarily on a site to burn vegetative debris as a site is cleared for development. The Planning staff recommends that if the request is approved, the Planning and Zoning Commission approve the request for a maximum of four (4) months.

The Planning staff is of the opinion that if the request is approved, the approval should include performance conditions limiting the impacts of the proposed use. The petitioner has provided a legal description describing the subject property containing approximately 30 acres. The petitioner indicated on the site plan that the debris burning site is approximately 275' from Kettering Road. The Planning staff would recommend that if the request is approved, the debris piles and debris burning site be confined to five (5) acres within the subject property and the days of operation limited to a maximum of four (4) days per month.

The County Engineer has indicated the proposed use may substantially increase truck traffic along the unpaved portion of Kettering Road and could potentially cause damage to the existing road. The County Engineer requests that if the request is approved, the petitioner be required to negotiate an agreement with the County for a per load truck hauling fee for the maintenance of Kettering Road from the south end of the pavement to the petitioner's access. The County Engineer also requests the petitioner negotiate an agreement with the County for the petitioner to maintain that portion of Kettering Road from the south end of the pavement to the petitioner's access.

Pasco County has been notified of the petition; no response has yet been received.

FINDING OF FACT

The subject property is located within the I-75/SR 50 Planned Development District, which will eventually consist of a mixture of commercial, industrial, residential, multifamily, recreation and public facility uses. Development in the surrounding area consists of two excavation operations, mobile homes, dairy operations and pasture on parcels ranging in size from 7 to 100 acres. As the area is designated per the comprehensive plan for a mixture of uses, it is the Planning staff's position that a temporary approval would not be inappropriate while this area transitions from existing agricultural uses.

The staff is of the opinion that the proposed air curtain incinerator operating for four (4) months at this location would not adversely affect the surrounding area with the appropriate performance conditions.

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 Concurrency. Prior to use of, or construction on, the property, the petitioner must receive approval from the appropriate County Department(s) for the use, which may include review by the Development Review Committee (D.C.).

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 RECOMMENDATION:

The Planning staff recommends the Planning and Zoning Commission approve the Conditional Use Permit for the temporary use of an air curtain incinerator for a period of four (4) months with the following performance conditions:

1. The petitioner must maintain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including review of the proposed use through the DRC process.
2. The petitioner shall use the existing access from Kettering Road.
3. The petitioner shall negotiate an agreement with the County for the maintenance of Kettering Road from the south end of the pavement to the petitioner's access. The petitioner must receive BCC approval for the agreement.
4. The petitioner shall negotiate an agreement with the County for a per load truck hauling fee for the maintenance of Kettering Road from the south end of the pavement to the petitioner's access.
5. The debris piles and debris burning site shall be confined to five (5) acres on the subject property.
6. The air curtain incinerator shall be operated a maximum of four (4) times per month.
7. The petitioner shall obtain a DEP Air Construction Permit and comply with any solid waste regulations regarding the debris storage piles.

P&Z ACTION:

The Planning and Zoning Commission voted 4-1 to approve the Conditional Use Permit for the temporary use of an air curtain incinerator for a period of six (6) months with the following performance conditions:

1. The petitioner must maintain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including review of the proposed use through the DRC process.
2. The petitioner shall use the existing access from Kettering Road.
3. The petitioner shall negotiate an agreement with the County for the maintenance of Kettering Road from the south end of the pavement to the petitioner's access. The petitioner must receive BCC approval for the agreement.
4. The petitioner shall negotiate an agreement with the County for a per load truck hauling fee for the maintenance of Kettering Road from the south end of the pavement to the petitioner's access.
5. The debris piles and debris burning site shall be confined to five (5) acres on the subject property.
6. The air curtain incinerator shall be operated a maximum of four (4) times per month.
7. The petitioner shall obtain a DEP Air Construction Permit and comply with any solid waste regulations regarding the debris storage piles.

BCC ACTION:

On December 3, 2002, the Board of County Commissioners voted to review the Planning and Zoning Commission's decision to approve the petitioner's request for a Conditional Use Permit for the temporary use of an air curtain incinerator. The hearing has been scheduled for December 17, 2002 at 10:45 a.m.

On December 17, 2002, the Board of County Commissioners postponed consideration of the review to their January 28, 2003 hearing at 10:45 a.m.