

STAFF REPORT

Planning & Zoning Commission: August 11, 2003
Planning & Zoning Commission: December 8, 2003

APPLICANT: Lee K. Pedone **FILE NUMBER:** CU-03-02

PURPOSE: Conditional Use Permit for Excavation

GENERAL

LOCATION: East side of Kettering Road, approximately 1800' south 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: 0

STAFF FINDINGS:

Surrounding Zoning

North: AG
South: AG
East: AG
West: AG

Surrounding Land Uses

Existing Excavation Operation
Agriculture
Agriculture
Agriculture

SUMMARY OF REQUEST

The petitioner has submitted a request for a conditional use permit for an excavation operation. The County's LDRs allow, with P&Z approval, excavation operations on properties 40 acres or less in size for a time period up to five years. The P&Z may grant the petition if they make the determination that the proposed request for this temporary use is appropriately located and compatible with the surrounding area. A petitioner may reapply to extend the length of a conditional use permit.

FINDINGS OF FACT

1. The property is currently zoned AG.
2. The subject property comprises approximately 20 acres.

3. The subject property is currently undeveloped.
4. The subject property has access from Kettering Road.
5. The subject property is within the I-75/SR 50 Planned Development District land use classification on the adopted Future Land Use Map.
6. The on-site soil type is 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.
7. The property is located in a flood zone C.
8. The County's generalized mapping indicates the subject property contains no wetlands, WHPAs or SPAs.
9. The Utilities Department has indicated that central water and sewer are not available to serve the subject property.
10. There are adequate public facilities available to serve a limited development on the subject property.
11. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner is requesting a conditional use permit for an excavation operation on this 20 acre site. The subject property is part of a larger parcel which comprises approximately 120 acres. An excavation operation is allowable as a conditional use permit in the AG district on 40 acres or less in size with P&Z approval. Initially in October 1993 and subsequently in December 1998, the petitioner received a CUP for an excavation operation on 30 acres adjacent to the north of this site which is also part of the overall 120 acres. The prior CUP was approved with the following performance standards:

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 for 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 narrative submitted by the petitioner indicates that they are planning to expand the existing excavation operation. On June 24, 2003, the BCC approved the reclamation performed on 12 of the northern 30 acres. As a result, the petitioner's request to excavate the 20 acre subject property in addition to the existing excavation activities on the contiguous 18 acres to the north does not exceed the 40 acre limit established by the LDRs.

The petitioner has indicated the proposed operation will be similar in impact to the previously approved excavation request. The same operator will be removing dirt at a rate expected to take 5 years to complete.

The proposed 20 acre site is now pasture land. The applicant has indicated that the area will be reestablished to permanent pasture as the excavation progresses. At least 20% will be bahia grass, and the other 80% will be in some form of pasture grass or hay. The petitioner does not anticipate that more than 5 to 10 acres of land will be open without grass at any given time. The final elevation after excavation and grading will be approximately 80' to 85' msl.

The subject property abuts Kettering Road, which is designated in the County's adopted Comprehensive Plan as an arterial roadway. Currently, Kettering Road is improved from SR 50 south to the Walmart Distribution Center. The proposed excavation site is located further south on an unpaved portion of the road.

During the initial review in 1993 of the CUP approved to the north, the Engineering department indicated that the proposed use would substantially increase truck traffic along the unpaved portion of Kettering Road and could potentially cause damage to the existing road. The petitioner entered into an agreement with the County for the maintenance costs of Kettering Road over the five-year expected life of the dirt removal operation. The petitioner requests in the narrative that the maintenance agreement previously entered into with the County for Kettering Road should be continued for the term of the requested conditional use permit. Staff is of the opinion that if the request for the operation of the excavation site is approved, a performance condition requiring a revision of the roadway maintenance agreement to include the subject property and extending the agreement for five years would mitigate the anticipated impact.

The petitioner provided a letter from the Southwest Florida Water Management District indicating their intent to issue a permit for the subject property. The permit had not been issued at the time of staff report completion; however, the petitioner indicated they believed it would be by the P&Z

hearing on December 8, 2003. The staff would not recommend the Planning and Zoning Commission approve the conditional use permit without the approval from SWFWMD.

The Pasco County Zoning/Code Compliance Administrator has indicated she has no objections to the proposed use.

FINDING OF FACT

The subject site is located within the I-75/SR 50 Planned Development District (PDD) which will eventually consist of a mixture of industrial, commercial, residential and public facility uses. It is the staff's opinion that an extension of the CUP for a period of five (5) years would not be inconsistent with the adopted Future Land Use Map nor incompatible with the surrounding area.

To the north and south the site abuts properties owned by the petitioner. Development in the surrounding area consists of several mobile homes, dairy operations and pasture on parcels ranging in size from 7 to 100 acres. The proposed use is a temporary use and the county regulations require reclamation of the site. Staff is of the opinion that the proposed use at this location would not adversely affect the surrounding area if the property is developed in accordance with the staff recommendation.

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 (DRC).

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 an excavation operation provided the SWFWMD approval was received by the Planning and Zoning Commission meeting because it is the staff's opinion that the request is consistent with development in the areas and would not adversely affect the surrounding area. Approval should be contingent upon the following:

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. 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 the addition of the subject property and the extension of the time period approved by the P&Z. The petitioner must receive BCC approval for any modifications to the agreement.
4. The petitioner shall obtain an excavation permit from the Development Department.
5. The Conditional Use Permit is approved for a maximum period of five (5) years, or the length of the SWFWMD permit, whichever is less.

P&Z ACTION:

The Planning and Zoning Commission voted 4-1 to approve the Conditional Use Permit for an excavation operation contingent upon the following:

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. 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 the addition of the subject property and the extension of the time period approved by the P&Z. The petitioner must receive BCC approval for any modifications to the agreement.
4. The petitioner shall obtain an excavation permit from the Development Department.
5. The Conditional Use Permit is approved for a maximum period of five (5) years, or the length of the SWFWMD permit, whichever is less.