

STAFF REPORT

HEARINGS: Planning & Zoning Commission: April 9, 2007

APPLICANT: Thomas Kelly

FILE NUMBER: CU-07-05

PURPOSE: Conditional Use Permit for Excavation

GENERAL

LOCATION: North side of Sweetgum Road, approximately 3,000' west of Sunshine Grove Road (CR 493)

LEGAL

DESCRIPTION: The west ½ of Lot 21 Crowell Acres, Plat Book 15, Page 58, of Public Records and a portion of Section 16, Township 22 South, Range 18 East, Hernando County, FL

FILE STATUS: All requirements necessary to conduct the public hearing have been satisfied.

CITIZEN RESPONSE: Correspondence received as of the date of this report? Yes No

APPLICANT'S REQUEST:

The petitioner is requesting a conditional use permit for excavation on approximate 4.89 acres. The petitioner expects that excavation of the proposed 41,000 cubic yards will commence immediately after all permits are in place. The petitioner has indicated that the subject property's final elevation will be that of the Sweet Gum Road right-of-way. The petitioner has indicated that they will obtain all necessary permits from Hernando County, the Southwest Florida Water Management District and Florida Department of Environmental Protection.

The daily schedule of the proposed excavation activity will be Monday thru Friday with no hauling during holidays. The County's excavation regulations limit excavation activities to between the hours of 7 a.m. and 6 p.m. The petitioner has indicated the established ordinance hours of operation would be appropriate.

SITE CHARACTERISTICS:

Site Size: 4.89 acres

Surrounding Zoning; Land Uses: North: AG; Mobile Home/Single Family
South: AG; Mobile Home/Single Family
East: AG; Mobile Home/Single Family
West: AG; Mobile Home/Single Family

Current Zoning: AG/(Agricultural)

Future Land Use Map Designation: Residential

Flood Zone: C

SITE CIRCUMSTANCES:

The site is currently developed with a mobile home and pigeon coupe. The narrative indicates that the entire property will be excavated and all existing structures will be removed prior to excavation. The petitioner has indicated that the subject property’s final elevation will be that of the Sweet Gum Road right-of-way. The petitioner has indicated that they will obtain all necessary permits from Hernando County, Southwest Florida Water Management District and the Florida Department of Environmental Protection.

ENVIRONMENTAL REVIEW:

Soil Type: Candler Fine Sand

Hydrologic

Features: The subject property contains no wetlands, Well Head Protection Area (WHPA), or Special Protection Area (SPA), according to County data resources.

Habitat: Candler fine sand provides a habitat suitable for gopher tortoises. Given the presence of the candler fine soils, gopher tortoise habitat and several commensal species have a moderate potential for occurring on the project site including eastern indigo snake (*Drymarchon corais*), Florida mouse (*Podomys floridanus*), Florida pine snake (*Pituophis melanoleucus mugitus*), and gopher frog (*Rana areolata*). Since there is the potential for this listed Species of Special Concern to be present, the site should be inspected prior to construction. Due to the species’ protected status, the destruction of their burrows constitutes taking under the law except as authorized by a specific permit, and a Florida Fish and Wildlife Conservation Commission permit may be required prior to site alterations.

UTILITIES REVIEW:

The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site. An existing 12" water line is located on the east side of Sunshine Grove Road near the intersection with Star Road approximately 5,300' south of the subject property. A sewer manhole is located at the intersection of Weeping Willow Street and Pine Cone Street approximately 6,300' south of the subject property.

ENGINEERING & TRANSPORTATION REVIEW:

The site has access from Sweet Gum Road, an unpaved limerock road. The County Engineer has indicated the petitioner shall enter into an agreement with the county for the maintenance of Sweet Gum Road during the excavation period.

The County's transportation planner has reviewed the subject request and had no comments.

LAND USE REVIEW:

If the request for the conditional use permit is approved, the petitioner will have to obtain an excavation permit from the Development Department prior to commencement of the excavation operations.

The LDRs require a minimum 100' setback where adjacent to agricultural uses (the surrounding parcels are zoned AG) and a minimum 100' vegetated buffer. The plan shows no buffers or setbacks and shows grading occurring up to the property lines. The plan does indicate a silt fence around the perimeter of the property. The narrative notes the presence of a natural basin line on the property. This feature is located in the northermost portion of the property. The Planning & Zoning Commission does not have the ability to grant a variance from the setback and buffer requirements.

If the conditional use permit request is approved, the petitioner will have to petition the Board of County Commissioners for a variance from the setbacks and buffer requirements.

The LDRs require the petitioner to submit a plan for the control of fugitive dust. The notes on the plan provided indicate the petitioner will control all fugitive dust by watering or other methods as required.

The LDRs require the petitioner to provide a reclamation plan. The narrative indicates the reclamation plan includes contouring or other suitable land-shaping techniques to enhance side slope stabilization and control erosion during reclamation so that adjoining properties are not affected. The narrative indicates slopes will not exceed 4:1, as required per the LDRs. The narrative indicates the operator will seed and mulch the site. The seeding is indicated to commence during the excavation process. As the property is regraded, hydroseeding, and mulch will be applied to the slopes until grading is completed.

COMPREHENSIVE PLAN REVIEW:

The area is characterized by single family, mobile homes, agricultural uses, and undeveloped parcels. Mobile homes are located north, south, and east of the property. The parcel to the west has previously been excavated and is currently undeveloped. The subject property is located within a Rural land use classification on the adopted Future Land Use Map.

The proposed use is appropriate, based on the following conclusion:

1. The proposed request is consistent with the County's adopted Comprehensive Plan and is compatible with the surrounding land uses subject to compliance with all performance conditions.

NOTICE OF APPLICANT RESPONSIBILITY:

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 Concurrence. Prior to use of, or construction on, the property, the petitioner must receive approval from the appropriate County department(s) for the proposed use.

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 RECOMMENDATIONS:

It is recommended that the Planning and Zoning Commission approve the Conditional Use Permit for Excavation for a period of two (2) years. Approval should be conditioned upon the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. The petitioner shall enter into an agreement with the county for the maintenance of Sweet Gum Road for the period of excavation.
3. The petitioner shall be required to obtain an excavation permit.

4. No excavation shall occur below the road on any transect running perpendicular to Sweet Gum Road.
5. Permits from all appropriate agencies must be obtained prior to commencing excavation.
6. The petitioner shall provide a reclamation plan in accordance with County LDRs.
7. The petitioner shall provide buffering in accordance with County LDR.
8. The petitioner shall provide appropriate dust abatement and sedimentation control in accordance with County LDRs and all other applicable regulations.