

April 8, 2019
Via: Hand Delivery

Project Number: P0801

Catherine Riiska, Principal Planner
Martin County Growth Management
2401 SE Monterey Road
Stuart FL, 34996

**Subject: Creative Land Management Development – MC #A040-015
Revised Major Master & Phase 1 Final Site Plan – Response to Staff Report**

Dear Ms. Riiska,

We are in receipt of the staff report dated March 19, 2018 and respectfully offer the following in response:

A-E: Acknowledged.

F. Determination of compliance with Comprehensive Growth Management Plan requirements - Growth Management Department

Unresolved Issues:

Item #1:

This application cannot be deemed to be in compliance with the Martin County Comprehensive Growth Management Plan (CGMP) until the issues identified in this report have been satisfactorily resolved. MARTIN COUNTY, FLA., CGMP POLICY 4.1A.1. (2016)

Response: Acknowledged

G. Determination of compliance with land use, site design standards, zoning, and procedural requirements - Growth Management Department

Unresolved Issues:

Item #1:

Site Plans – Master, Phasing, Phase 1 Final

A complete site plan is required as part of the application. MARTIN COUNTY, FLA., LDR SECTION 10.2.B. (2016)

Remedy/Suggestion/Clarification:

Item #1:

1. The applicant's response has indicated that areas of equipment/vehicular storage have been designated as 'grassed vehicular area' on the master site plan and that restoration of these vehicular and storage areas are shown in the landscape plans east of the lake. However, existing areas of parking and equipment and materials storage north of the existing dirt access drive and wood power poles do not appear to have been identified (see aerials attached as Exhibit 1 to this report). Revegetation/restoration of this unaddressed northern area, as well as the area shown on the east side of phases 2 and 3 as 'grassed vehicular storage area' do not appear to be shown for revegetation on the landscape plans. Does the applicant propose to continue use of or to relocate those existing areas and, if so, what restoration for those areas is proposed? Please revise the graphics to delineate these areas and to identify their existing and proposed use(s) or restoration, including specific timeline and activities associated with this area.

Response: *We acknowledge that there was no staging area originally shown north of the lake as the client originally did not wish to store equipment there. He has since changed direction and an additional "Staging / Interim Use Area" has been added north of the lake. The corresponding site data has been updated to reflect the same.*

With respect to revegetation of the Staging / Interim Use Areas, the landscape plan reflects "ALL disturbed areas and filled areas to be treated with Native Seeding;" however, the applicant intends to utilize the "Staging / Interim Use Area" for all three phases; therefore, per the previous staff report, Note #3 was added stating that this area shall be used for all three phases, but if the future phases do not move forward, these areas must be restored as part of Phase 1. This note has been further clarified to add "...this area shall be cleanup up, prepared per seed provider, and restored..." Additionally, on the landscape plan, under Native Seeding, "Soil in all disturbed areas shall be prepared per seed provide prior to installation" has been added.

2. Please explain what the oval feature is that is shown between the "grassed vehicular storage area" and the upland preserve area on the east side of the existing lake, on the master and final site plans, that appears to span also into the area proposed for dedication. Please label and indicate final disposition of this feature/structure.

Response: *It is trees that are not to be disturbed. This area has been added to the Inlet A.*

3. Please revise the circular inset on the proposed master and final site plans to include all structures/features shown on the plan. (See comment #2 above).

Response: *Acknowledged.*

4. Please revise the cited "existing use vacant" on the property adjacent to the north to correctly reflect "existing use mining" on the master and final site plans.

Response: *The text has been revised.*

Additional revision: *we added the statement that Engineering has requested to the Phase 1 Final site plan and phasing plan (as well as to sheet 2 of the construction plans) regarding the approved stipulation.*

Item #2:

Other Agency Permits

The applicant has chosen Option 1 for submittal of other agency permits for consistency review. Pursuant to Section 62-701.720 (15), Clean debris may be used as fill or raw material in any area, including waters of the State, subject to receipt of an environmental resource permit from the Department where applicable. Please submit the FDEP authorization and other agency authorizations as identified in Section V of this report.

Staff acknowledges that the applicant has indicated that the FDEP ERP will be forthcoming. Please be advised that all other agency permits, as cited in Section V of this report, are required to be submitted for review prior to development order approval pursuant to the Option 1 choice. Therefore, this item will remain unresolved until the applicable authorizations have been received and verified as consistent with the County approved plans.

Response: *The NPDES permit is attached. The SFWMD Permit is forthcoming – we were waiting to submit the identical plans that we are submitting to County staff in response to this staff report such that the permits match exactly.*

Additional Information:

Information #1:

The development order shall be conditioned as follows:

1. An annual progress report shall be submitted to the PDS within 30 days of the anniversary date of the permit for all mining permits that have a duration of more than one year. The report shall be prepared by a Florida registered engineer, shall demonstrate that the permit criteria have been met to date and that the project is in compliance with all other applicable permits. The annual progress report shall include record ("as-built") drawings of all work done to the date of the report. MARTIN COUNTY, FLA., LDR SECTION 4.349. (2001)

Response: Acknowledged.

2. A three-year performance bond/security is required to ensure that restoration of the excavation and/or fill or mining site shall be completed, including items such as, but not limited to, general clean-up, grading, and revegetation of the lake banks, littoral zones and upland transition zone. The amount of the security shall be approved by the County Engineer, and shall be based on 110 percent of a cost estimate prepared by a Florida registered engineer for the general clean-up, grading, and site restoration including the required littoral zone and upland plantings by an environmental professional. MARTIN COUNTY, FLA., LDR SECTION 4.350. (2001)

Response: Acknowledged.

3. Within 30 days of the completion of the excavation and/or filling or mining, a Florida registered professional engineer, a Florida registered professional surveyor and mapper, or a Florida registered professional landscape architect shall certify that the excavation was constructed in substantial conformance with the plans and specifications approved by the county. A certification statement must also appear on the certification report. MARTIN COUNTY, FLA., LDR SECTION 4.351. (2001)

Response: Acknowledged.

4. All disturbed mining/excavation areas shall be reclaimed, and reclamation shall begin immediately following excavation or each phase of excavation, whichever occurs first. All disturbed and reclaimed areas shall be planted or seeded with a permanent native ground cover to reduce the loss of topsoil due to water and wind erosion, to prevent the establishment of prohibited plant species and to provide adequate growing conditions for reclamation planting requirements. MARTIN COUNTY, FLA., LDR SECTION 4.348.C. (2001)

Response: Acknowledged.

5. A hauling operations report and payment of associated hauling fees shall be submitted quarterly to the County Public Works department. MARTIN COUNTY, FLA., LDR SECTION 4.343.C. (2001) See also Section M, Public Works.

Response: Acknowledged

H.: Acknowledged.

I. Determination of compliance with the property management requirements – Public Works Department

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The Applicant has agreed to provide due diligence materials and convey property to the County for access to Hawk's Hammock Park.

Responses are included below to the comments for the title attorney; however, based last week's staff workshop, it is our understanding that all issues have been satisfied and this section is now a comply.

Unresolved Issues:

Item # 1:

Title Commitment:

The County is in agreement with the Applicant's response regarding Schedule B-II #6.

Regarding Schedule B-II #17, Mutual Quit Claim Access Easement - The access easement is not on the property being conveyed to the County and Martin County has not requested an access easement because it has access on SW Green Farms Lane. Additionally, the County has assured the attorney for Creative Land Management, LLC, that it will not use the existing access easement.

Therefore, the title company should delete this title exception from the title commitment since it is insuring the property being conveyed to Martin County and the property being conveyed has access to SW Green Farms Lane.

If Creative Land Management, LLC decides to release the Mutual Quit Claim Access Easement, which would eliminate it as an Exception on the Title Policy, the County offers the following information from the Martin County Property Appraiser's records that appear to show that Creative Land Management, LLC is the successor in interest to both parties to the Access Easement:

1. Martin County Park of Commerce, Inc. conveyed property to All County Environmental Products, Inc. on 6/24/09 – OR Book 2399, Page 1218.
2. All County Environmental Products, Inc. conveyed Parcel 1 to Creative Land Management, LLC on 6/29/15 – OR Book 2793, Page 2036.

Response: The parties have agreed that Creative Land Management, LLC shall release Martin County from the Mutual Quit Claim Access Easement as Martin County will not use the easement. A Release Agreement has been prepared, reviewed, and revised, and the final language was approved as of 3/21/19 by all parties. The draft of the Release has been provided to our underwriter for revision of the title commitment to indicate that B-II #17 will be deleted upon execution and recording of the Release Agreement. The title commitment has also been updated and provided to Martin County, and per Colleen Holmes at Martin County, she will be able to change the Property Management section to "Comply". Also, per Colleen Holmes at Martin County, when the project is scheduled to go to the Board of County Commissioners, the agreement and a resolution accepting the deed for the property will go at the same time.

Additional Information:

Information #1:

Survey and Sketch and Legal Description:

The survey and sketch and legal description provided by the Applicant have been reviewed by the County Surveying Division and approved.

Response: Acknowledged.

Information #2:

Phase I Environmental Site Assessment:

The Updated Phase I Environmental Site Assessment provided by the Applicant has been reviewed and approved.

Response: Acknowledged.

**J. Determination of compliance with environmental and landscaping requirements -
Growth Management Department**

Environmental

Finding of Compliance:

The Growth Management Department Environmental Division staff has reviewed the application and finds it in compliance with the applicable land development regulations.

Landscape

Unresolved Issues:

Item #1:

Standard Application Requirements

The deficiencies noted in this section need to be addressed by the applicant with revised plans and documentation. To ensure a successful review, the following shall be provided with your resubmittal information:

Revision dates/notes on all affected plans.

Plans should be provided with "call-out" revision clouds/notes to identify areas that have been modified from the original submittal.

A summary of changes that are provided with your resubmittal information, the staff report may be used as a template for your responses. It is important that you be specific as to what has been changed and where the changes may be found in the resubmitted materials. Resubmittal comments provided to address deficiencies such as "see the revised plans" should be replaced with more specific language such as "refer to the revised 30' dimension to the NE buffer provided on sheet 3/4 and revised landscape note 3 on sheet 2/4".

Response: Based on our conversation at the workshop, it is acknowledged that the whole plan would be clouded. The revisions per this submittal include:

- **Changed "may" to "shall" under 20-25' wide buffer.**
- **Under Native Seeding, "Soil in all disturbed areas shall be prepared per seed provide prior to installation" has been added.**
- **Added the "staging / interim use areas" to the plan**
- **Added the words "undisturbed area" to the area where trees are being protected**
- **Added the word "all" in front of the large note in the lake regarding disturbed areas and filled areas to be treated with native seed.**

Item #2:

Landscape Bufferyard Requirements

Landscaped bufferyards shall be required between differing land uses and along certain transportation corridors. It is the intent of the code to encourage the preservation of existing vegetation for use in buffers as opposed to clearing and replanting designed landscapes. [Section 4.663.B., LDR]

Remedy/Suggestion/Clarification:

A 20-25 ft. width dedicated perimeter buffer is shown on the plans. There does not appear that sufficient understory will be present to meet requirements for opacity. Please revise the note

regarding planting of additional shrubs, it currently says that shrubs MAY be installed. Revise note to say that shrubs SHALL be installed if necessary to meet requirements for opacity. Trees are shown as planted in rows, this configuration does not meet the intent for restoration. Trees can be concentrated within the northern portions of the site outside the fill area however they shall also be required to be planted in accordance with the note that says trees shall be planted in a natural pattern.

Response: *The language has been revised.*

Item #3:

Additional Landscape Condition

Though a note has been added to the plans stating that disturbed areas and fill areas are to be treated with native seed, it is unclear which areas are included in the delineation of "disturbed areas". Please clarify that the whole area north of the existing lake to be filled and the disturbed areas east and west of Phase 1 are included within the areas to receive native seeding. The employee parking and work areas that are identified on the east side of the lake to be utilized during all phases shall be required to be restored and associated landscape plans provided with the submittals for Phase 3.

Response: *The landscape plan now reflects "ALL disturbed areas and filled areas to be treated with Native Seeding;" and includes arrows pointing to the limits. West of the lake is only a small area, as the balance is part of the undisturbed area within silt fence. East of the lake, there are also undisturbed areas and a staging area that is proposed for use throughout the duration of the three phases of the project. However, per the previous staff report, Note #3 was added stating that this area shall be used for all three phases, but if the future phases do not move forward, these areas must be restored as part of Phase 1. This note has been further clarified to add "...this area shall be cleaned up, prepared per seed provider, and restored..." Additionally, on the landscape plan, under Native Seeding, "Soil in all disturbed areas shall be prepared per seed provider prior to installation" has been added.*

K-L: Acknowledged.

M. Determination of compliance with engineering, storm water and flood management requirements - Public Works Department

Unresolved Issues:

Item#1:

Per Staff's meeting with the Engineer of Record, Melissa Corbett, and the applicant's attorney, Bob Raynes on Wednesday, February 23rd, the following statement will be added to the Phase 1 Final Site Plan and associated Construction Plans:

Phase 1 shall include the following work outside the defined Phase 1 boundaries as approved with the remediation plan attached as Exhibit 2 of the Creative Land Management LLC Commitment for Restoration of Mining Site dated May 25, 2017 and required by Stipulation and Agreed Final Order Case Number 16-0107262:

1. All areas of excavation outside the boundaries of the approved lake shall be backfilled to natural ground.
2. The bottom of the entire lake shall be filled to a depth no greater than 20-feet below the control elevation, or 7.53' NAVD.
3. All slopes shall be graded in accordance with the approved remediation plan.

Response: *This note has been added to the Phase 1 Final Site Plan, Phasing Plan, and Sheet 2 of the construction plans.*

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Additional Information:

Information #1:

Development Order Requirement

Also, the applicant shall provide a three-year performance bond/security in the amount of \$655,590.41 as previously approved with Stipulated Agreement. The following will be included as a Development Order Requirement pursuant to Section 4.350 of the Land Development Regulations:

A three-year performance bond/security is required to ensure that restoration of the excavation and/or fill or mining site shall be completed, including items such as, but not limited to, general clean-up, grading, and vegetation of the lake banks littoral zones, and upland transition zone. The amount of the security shall be approved by the County Engineer, and shall be based on 110 percent of a cost estimate prepared by a Florida registered Engineer of the general clean up, grading, and site restoration include in the required littoral zone and upland planting by an environmental professional. The guarantees for phased project may be bonded separately.

Response: Acknowledged

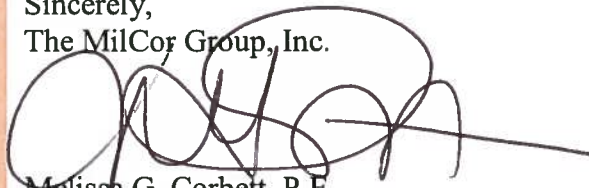
N-Z: Acknowledged.

Please find the following materials for review:

1. Two (2) Master Site Plan;
2. Two (2) Phasing Plan;
3. Two (2) Phase 1 Final Site Plan;
4. Two (2) Phase 1 Landscape Plan;
5. Two (2) Construction Plans
6. NPDES Permit and
7. CD containing AutoCAD File of plans and bookmarked pdf of submittal.

Thank you for your time and assistance.

Sincerely,
The MilCor Group, Inc.



Melissa G. Corbett, P.E.
President

Enclosures: as listed

Cc: Jason Pepitone