



## Legislation Details (With Text)

**File #:** 21-0819  
**Type:** Public Hearing  
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**In control:** Board of County Commissioners  
**On agenda:** 6/22/2021  
**Final action:** 6/22/2021  
**Title:** PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE LAND DEVELOPMENT REGULATIONS REGARDING EXCAVATION, FILLING, AND MINING

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2021-06-22\_Staff Presentation.pdf, 2. 2021-06-22\_Draft Ordinance\_ExcavatingFillingMining.pdf, 3. 2021-06-22\_Exhibit A\_Part 1\_Article 4 - Division 8\_DRAFT.pdf, 4. 2021-06-22\_Exhibit B\_Part 2\_Article 4 - Division 1\_Draft.pdf, 5. 2021-06-22\_Exhibit C\_Part 3\_Article 4 - Division 9\_DRAFT.pdf, 6. 2021-06-22\_Exhibit D\_Part 4\_Article 5 - Division 2.pdf, 7. 2021-06-22\_Exhibit E\_Part 5\_Article 10\_Draft.pdf, 8. 2021-05-21\_Stuart News Ad.pdf, 9. 2021-06-07\_Gilio\_Public Comment.pdf

| Date      | Ver. | Action By                     | Action   | Result |
|-----------|------|-------------------------------|----------|--------|
| 6/22/2021 | 1    | Board of County Commissioners | approved | Pass   |

**PLACEMENT:** Public Hearings

**TITLE:**

**PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE LAND DEVELOPMENT REGULATIONS REGARDING EXCAVATION, FILLING, AND MINING**

**EXECUTIVE SUMMARY:**

The Board of County Commissioners is asked to consider adoption of an ordinance that amends Division 8, Article 4, Land Development Regulations to clarify the applicability of Excavation and Fill Permits and remove conflicting provisions. The ordinance also includes amendments to Divisions 1 and 9, Article 4 to relocate provisions from Division 8 that are better suited in Divisions 1 and 9. In addition, amendments to Article 10 are proposed to establish an application process for Mining Operations in the development review procedures and to Division 2 of Article 5 to provide a corresponding timetable for development.

**DEPARTMENT:** Public Works

**PREPARED BY:** **Name:** Michelle Cullum, P.E.  
**Title:** Development Review Administrator

**REQUESTED BY:** Frank Poma - Manager, Palm City Holdings, LLC and Lisa A. Wichser, P.E., CFM - County Engineer

**PRESET:**

**PROCEDURES:** None

## **BACKGROUND/RELATED STRATEGIC GOAL:**

Martin County received a request from Palm City Holdings, LLC to “create specific “Mining Development” application for approval of a mine” by amending Article 10, Division 2 of Article 5, and Division 8 of Article 4 in the Land Development Regulations. Staff suggested, and the applicant agreed, to propose further amendments of Division 8, Excavation, Filling, and Mining for the purpose of clarifying its language and applicability. The proposed amendments included in this ordinance are outlined as followed.

### Article 4, Division 8 - Excavating, Filling, and Mining

Division 8 of Article 4 in the Land Development Regulations provides for excavating, filling, and mining. Any person proposing to excavate or fill any real property in unincorporated Martin County shall first obtain a Martin County Excavation and Fill Permit in accordance with the requirements of Division 8. Excavation and Fill Permits are issued by the Public Works Department. The proposed amendment of Division 8 primarily clarifies the applicability of an Excavation and Fill Permit. The amendments to Article 4, Division 8 - Excavating, Filling, and Mining:

- ❖ Clarify the language in general;
- ❖ Remove redundant and conflicting provisions;
- ❖ Add a glossary to define frequently used terms;
- ❖ Clarify the applicability of when an Excavation and Fill Permit is required;
- ❖ Replace the subjective threshold for Major Development with Mining Operation development;
- ❖ Replace the bona fide agricultural standards with the Martin County Property Appraiser’s determination;
- ❖ Codify the requirement for a renewal and a hauling fee;
- ❖ Establish Excavation and Fill Permit application review procedures and timeframes;
- ❖ Limit dewatering to twenty (20) feet;
- ❖ Relocate provisions for wetland protection to Division 1; and
- ❖ Relocate provisions for lake area management plan and littoral and upland transition plantings to Division 9.

### Article 4, Division 1 - Wetland Protection

Division 1 of Article 4 in the Land Development Regulations provides for wetland protection. The proposed amendment includes relocating the wetland protection requirements found in Division 8 to the more applicable Division 1 of Article 4.

### Article 4, Division 9 - Stormwater Management

Division 9 of Article 4 in the Land Development Regulations provides for stormwater management, which includes water quality criteria and the maintenance of stormwater runoff. The proposed amendment includes relocating the littoral and upland transition plantings requirement found in Division 8 to the more applicable Division 9 of Article 4.

### Article 10 - Development Review Procedures

Article 10 in the Land Development Regulations provides for development review procedures. The proposed amendment creates a Mining Operation development as a Major Development that requires a pre-application meeting and additional requirements for annual reporting.

Article 5, Division 2 - Adequate Public Facilities

Division 2 of Article 5 in the Land Development Regulations provides timetables for development that have a certificate of public facilities reservation. The proposed amendment establishes a five (5) year timeframe with two (2) optional extensions of five (5) years each for Mining Operation development.

**ISSUES:**

The applicant requested the amendment establish a ten-year timeframe with two optional extensions of five years each for Mining Operation development. Staff believes that a five-year timeframe with two optional extensions of five years each is more consistent with other applications.

**LEGAL SUFFICIENCY REVIEW:**

This is a legislative matter. Legislative decisions are those in which the local government formulates policy rather than applying specific rules to a particular situation. A local government's approval or denial of an issue in its legislative capacity is typically subject to a fairly debatable standard of review. Fairly debatable means that the government's action must be upheld if reasonable minds could differ as to the propriety of the decision reached. Decisions subject to the fairly debatable standard of review need only be rationally related to a legitimate public purpose, such as the health, safety, and welfare of the public, to be valid. Given this broad discretion, only decisions that arbitrary and capricious or illegal are subject to serious legal challenge.

**RECOMMENDED ACTION:**

**RECOMMENDATION**

Move that the Board adopt the proposed ordinance amending Division 8 of Article 4 - Excavating, Filling, and Mining, Division 1 of Article 4 - Wetland Protection, Division 9 of Article 4 - Stormwater Management, Article 10 - Development Review Procedures, and Division 2 of Article 5 - Adequate Public Facilities of the Land Development Regulations and establish an effective date upon filing with the State.

**ALTERNATIVE RECOMMENDATIONS**

1. Move that the Board adopt the proposed ordinance with ten (10) years to complete the Mining Operation development and two (2) five (5) year extensions; or
2. Do not adopt the ordinance and provide staff direction.

**FISCAL IMPACT:**

**RECOMMENDATION**

None

**ALTERNATIVE RECOMMENDATIONS**

None

**DOCUMENT(S) REQUIRING ACTION:**

- Budget Transfer / Amendment     Chair Letter     Contract / Agreement  
 Grant / Application     Notice     Ordinance     Resolution  
 Other:

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