



Agenda Item Summary

File ID: 21-0821

PH-3

Meeting Date: 6/22/2021

PLACEMENT: Public Hearings

TITLE:

PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING DIVISION 8 OF ARTICLE 4 IN THE LAND DEVELOPMENT REGULATIONS REGARDING MINING STANDARDS

EXECUTIVE SUMMARY:

The Board of County Commissioners is asked to consider adoption of an ordinance amending Division 8 of Article 4 of the Land Development Regulations to create Section 4.348 Mining Standards for Mining Operations. Although the ordinance was originally scheduled for consideration on June 22, 2021, the Board is asked to continue the public hearing to July 13, 2021.

DEPARTMENT: Public Works

PREPARED BY: **Name:** Michelle Cullum, P.E.

Title: Development Review Administrator

REQUESTED BY: Frank Poma - Manager, Palm City Holdings, LLC

PRESET:

PROCEDURES: None

BACKGROUND/RELATED STRATEGIC GOAL:

Martin County received a request on behalf of Palm City Holdings, LLC to increase the allowable depth of excavation in a Mining Operation from twenty (20) feet to forty (40) feet below the water control elevation. The water control elevation is also known as the wet season water table.

Currently, Division 8 of Article 4 provides for a maximum lake depth of twenty (20) feet below the water control elevation. If the proposed excavation exceeds fifteen (15) feet below the water control elevation, then the applicant is required to provide soil and geological assessments that fully addresses potential impacts upon the water quality of the aquifers and surrounding wells. This provision is found in Section 4.347.A.6 and is referenced below:

Section 4.347.A.6 Maximum depth. The depth of an excavated body of water shall not exceed twenty (20) feet as measured from the water control elevation to the bottom. For excavation proposed deeper than fifteen (15) feet below the water control elevation, the applicant shall provide soil and geological assessments that fully determine the subsurface soils and groundwater conditions, fully determine the proximity to the subsurface aquifers and confining layers, and address the potential impacts upon the water quality of the aquifers and surrounding wells. All such assessments shall be prepared by a Professional

Engineer or Professional Geologist licensed in the State of Florida qualified to provide the required information.

The Board of County Commissioners recently considered an ordinance that created an application for Mining Operations; however, it did not provide separate standards for Mining Operations. Staff has been working with the applicant and the applicant's professional consultants to propose more stringent standards for excavation when Mining Operations exceed the maximum allowable depth of twenty (20) feet as established in Division 8. This proposed ordinance would further amend Article 4, Division 8 by creating Section 4.348. Mining Standards for Mining Operations.

ISSUES:

Staff requests that this item be continued to the July 13, 2021 meeting in order to finalize the ordinance language with the applicant. The applicant has no objections to this request.

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 continue this item to the July 13, 2021 meeting.

ALTERNATIVE RECOMMENDATIONS

None

FISCAL IMPACT:

RECOMMENDATION

None

ALTERNATIVE RECOMMENDATIONS

None

DOCUMENT(S) REQUIRING ACTION:

- | | | |
|--|---------------------------------------|---|
| <input type="checkbox"/> Budget Transfer / Amendment | <input type="checkbox"/> Chair Letter | <input type="checkbox"/> Contract / Agreement |
| <input type="checkbox"/> Grant / Application | <input type="checkbox"/> Notice | <input type="checkbox"/> Ordinance |
| <input type="checkbox"/> Resolution | | |
| <input type="checkbox"/> Other: | | |

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