



## Legislation Details (With Text)

**File #:** 21-0886

**Type:** Public Hearing      **Status:** Passed

**In control:** Board of County Commissioners

**On agenda:** 7/13/2021      **Final action:** 7/13/2021

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

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2021-07-13\_Draft\_Ordinance\_Mining Standards.pdf, 2. 2021-05-21\_Stuart News Ad.pdf, 3. Supp\_Memo, 4. Corbett Email

Date	Ver.	Action By	Action	Result
7/13/2021	1	Board of County Commissioners	approved	Pass

**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. The ordinance was originally scheduled for consideration on June 22, 2021 but was continued 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 address 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 adopted an ordinance that created an application for Mining Operation development; 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 does not have the expertise to render an opinion regarding this request and is relying on the applicant to present justification for this request. Furthermore, the County does not have a Professional Engineer or Professional Geologist that is qualified to evaluate the required information that certifies the water quality of the aquifers and surrounding wells will not be impacted when excavating deeper than fifteen (15) feet. Should the Board approve such an amendment, independent technical consultants and experts should be retained to properly evaluate applications for Mining Operation development, as necessary.

### **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 consider the applicant's request and provide direction to Staff.

#### **ALTERNATIVE RECOMMENDATIONS**

1. Move that the Board adopt the proposed ordinance amending Article 4, Division 8 -

Excavating, Filling, and Mining to create Section 4.348 Mining Standards with revisions as directed by the Board.

2. Move that the Board adopt the proposed ordinance amending Article 4, Division 8 - Excavating, Filling, and Mining to create Section 4.348 Mining Standards as presented.
3. Do not adopt the ordinance.

**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 checked="" type="checkbox"/> Ordinance |
| <input type="checkbox"/> Other:                      | <input type="checkbox"/> Resolution   |   |

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