

MINUTES
LAKE COUNTY PLANNING AND ZONING BOARD
October 31, 2012

The Lake County Planning and Zoning Board met on Wednesday, October 31, 2012 in Room 233 on the second floor of the County Administration Building to consider petitions for Rezonings.

The recommendations of the Lake County Planning and Zoning Board will be transmitted to the Board of County Commissioners (BCC) for their public hearing to be held on Tuesday, November 20, 2012 at 9 a.m. in the Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

Members Present:

Timothy Morris, Vice Chairman	District 1
Lorenzo G. John Ameri	District 3
Rick Gonzalez	District 4
Paul Bryan, Chairman	District 5
Jim Miller	School Board Representative

Members Not Present:

Donald Heaton	Ex-Officio Non-Voting Military Representative
Ted DeWitt	District 2
Kasey Kesselring	At-Large Representative

Staff Present:

Steve Greene, AICP, Chief Planner, Planning and Community Design Division
Anita Greiner, Chief Planner, Planning and Community Design
Jennifer Cotch, Environmental Specialist, Planning and Community Design Division
Melving Isaac, Planner, Planning and Community Design
Ann Corson, Office Associate IV, Planning and Community Design Division
Erin Hartigan, Assistant County Attorney
Mary Hamilton, Environmental Services Division Manager, Public Works
Ross Pluta, Engineer III, Public Works
Susan Boyajan, Clerk, Board Support

Chairman Paul Bryan called the meeting to order at 9:05 a.m. He led the Pledge of Allegiance, and Mr. Ameri gave the invocation. Chairman Bryan confirmed that the meeting was properly noticed and explained the procedure for hearing cases on the consent and regular agendas, stating that they only hear the cases that are on the regular agenda individually. He stated that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Recording Secretary prior to proceeding to the next case. He added that this Board is a recommending board only, and the Board of County Commissioners will be hearing these cases later this month when a final determination will be made.

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Agenda Updates

Consideration of Minutes October 3, 2012

CONSENT AGENDA

Tab 1 **PH# 32-12-5** Lake County BCC/J. Jolliff, Fire Chief
Fire Station #14 – Tower rezoning

Tab 2 **PH# 34-12-1** M. Anderson Family Partnership/Ladd Dev
Anderson Property rezoning

REGULAR AGENDA

Tab 3 **MSP#12/11/1-5** Jack Reiner/Reliable Peat Co., Inc.
Pine Meadows Peat Mine

AMENDMENTS TO LDR

Tab 4 **Ordinance 2012-XX** Lake County LDR amendment-Floodplain

COMPREHENSIVE PLAN AMENDMENT

Tab 5 (postponed) **Ordinance 2012-XX** **Rural Support Corridor provisions**
LPA #12/5-2

Other Business

Adjournment

MINUTES

MOTION by Tim Morris, SECONDED by Rick Gonzalez to APPROVE the October 3, 2012 Lake County Planning and Zoning Board Public Hearing minutes, as submitted.

FOR: **Morris, Ameri, Gonzalez, Bryan, Miller**

AGAINST: **None**

MOTION CARRIED: 5-0

AGENDA UPDATES

Steve Greene, Chief Planner, explained that there were two changes to the Agenda, including one change to the Consent Agenda to add an additional condition to the Ordinance for PH#32-12-5, which will not necessitate that case to be removed from the Consent Agenda. He stated that the

along CR 44A and CR 450A. She related that the property has been disturbed for decades after dredging, ditching, and other agricultural uses, and she noted that she had aeriels dating from 1953 to 2008 illustrating the change of the property over the years from a chief wetland system to what it looks like now. She explained that the applicant is proposing to remove approximately 175 acres of peat from the site in three phasing operations over ten years, and approximately 88 acres of high-quality vegetative wetland systems will be left after the work is completed as well as approximately 106 acres of open water. The applicant is requesting that the Board waive the setback requirements because of the wetland restoration aspect of the project and proposed that 25 acres at the southeast corner be placed in a conservation easement prior to the beginning of the mining activity, which is where most of the adjoining residential homes are located and which would give about a 1,000-foot setback from the mining activity from the residential property lines. She reported that staff has received a letter of support from the St. Johns Water Management District and a Notice of Intent to issue a permit from DEP. She pointed out that if this request is approved, the applicant will still need to obtain an operating plan, reclamation plan, noise study, and traffic study with a management plan. She related that the application is consistent with their Comp Plan policies, the LDR's, and the Rural Residential zoning category, and she pointed out that the project itself is not located in the recharge area. She stated that the applicant is also requesting a waiver to the LDR Section 6.06.02 that requires a 200-foot setback from churches, schools, parks, hospitals, and residentially zoned properties, which staff supports because the setback would hamper the restoration phase of the project. She concluded that staff recommended approval of the CUP and MSP request.

Mr. Morris asked why leaving the 200-foot setback would hamper the restoration.

Ms. Cotch responded that currently the wetland is so degraded that by leaving that area alone and not pulling out the exotic nuisance vegetation in order to have that buffer would hamper recreation of the wetland, and the exotic vegetation would eventually take over anything planted next to it.

Mr. Gonzalez asked about the elevation in relation to Lake El Dorado and whether mining this peat will dry up that lake.

Ms. Cotch answered that the elevation information has not yet been submitted to them and will be part of the operating plan; however, she assured him that this should have no effect on the lake, because all of the water is going to remain within each phase and will not be extracted. She also assured the Board that it will not contaminate the aquifer since it was well above that layer.

Mr. Gonzalez opined that she should have information such as where the groundwater flows and how mining peat is going to affect the lakes in the area before approval of this request.

Ms. Cotch responded that this request is only for the mining use, so they do not require that much scientific data for this stage.

Mr. Bryan asked about what the Public Works Department commented about the easement for the access road going out to CR 450.

Ms. Cotch stated that they do have concerns about that, which will be looked at further with the transportation study that would have to be submitted.

Mr. Jack Reiner, General Manager of Reliable Peat Company, addressed the question about Lake Eldorado, stating that the portion of the joint lake is out of the mining area and will not be affected by the project, and he also noted that the water level will be maintained in that area the whole time. He also pointed out that there is a permanent flowage easement on this property which was

established with the St. Johns River Water Management District and the property owner years ago, giving them the right to pump that water down any time after getting a permit from St. Johns and was public record. He related that their company produces peat for horticulture and agriculture, which is the second largest industry in the state, and the legislature put exemptions into place for peat or horticulture/agriculture uses. He explained that the reason this site was selected was because they have been trying to work with impacted wetlands that have been farmed and used for purposes which have left a high concentration of phosphates and nitrates on the land which is not good for water quality, and he emphasized that this site has a very degraded wetland quality with over 80 percent of undesirable invasive species in the area; however, St. Johns does not have the money to fix the problem and restore the wetlands. He pointed out that they have to post a reclamation bond that guarantees that 80 percent of that wetland will be restored with high-quality native vegetative species. He also mentioned that their traffic flow will come out to CR 450A and go south to 19, and they have no more than 15 trucks a day which run five days a week from 7:00 a.m. until 4:30 p.m. He stated that they have been producing peat in Lake County for the last 28 years, and he opined that they were good and accommodating neighbors and good stewards of the land who believe they will enhance the quality of the wetlands and the water in that area.

Mr. Gonzalez clarified that they will make it part of their operating permit that trucks coming out of the site will turn left towards 19 and not right towards Estes Road.

Mr. Morris mentioned that Saturday was mentioned in the hours of operation in the ordinance.

Mr. Reiner responded that they can change that to Friday, and the only time they have ever operated on a Saturday was due to a major weather event.

Mr. Ameri asked if there were any noise or dust mitigation proposals incorporated in the operation.

Mr. Reiner stated that all of their equipment is muffled, and they also put a containment area as a noise barrier with a berm around the pump. He added that they use a tank truck that is pulled with a tractor that spays water for dust control on the access road. He also assured the Board that peat does not have much of a smell.

The Chairman opened the public hearing.

Ms. Sandy Stura, who lives across from the proposed development, commented that although she believes in industrial development in Lake County, she is concerned about the impact to the rural development that is possible in that area, the beauty, and the lakes such as Lake Dalhousie, Lake Eldorado, and Trout Lake that are in the watershed area of this proposed project. She stated that her research indicated that there were many other things that could be used for fertilizer other than peat and that the peat bogs were vital to the carbon dioxide level and the climate change. She was also concerned about what would be released into the air if the peat was disturbed, and she mentioned that Britain has legislated to stop peat mining in 2012 because of a concern about global warming. She pointed out that it takes 100 years for the bog to be recreated, and she was also concerned about the trucks and the noise.

Mr. William Sharp, a homeowner whose property is adjacent to the proposed site, related concerns about sink holes, well damage, and other issues that can affect his property, including whether there could be any recourse for the nearby property owners for any negative impacts that might occur. He also commented that the studies done by the applicant illustrating the harmlessness of the project could be wrong. He mentioned that he did not get notification of the proposed mine, and he commented that people who work during the day would not be able to attend the public hearing.

Mr. Egor Emory stated that he was concerned about the resulting traffic as well as about what would happen to the water flow downstream to this area. He expressed concern that they do not have enough information about the project to determine if it will result in an improvement in their quality of life in the area, and stated that he was not in favor of it for that reason.

Ms. Cotch pointed out that the DEP, who does more of the technical review, sent out the notice of intent to issue that permit and would have all the technical data, which is public record; she also noted that the application could be on the DEP website. She added that the County is not requiring that information now, because it is only required with the operating plan. She also assured the Board that this hearing was properly noticed, with her personally posting four signs about this hearing at the site and anyone living within 500 feet of the mine getting a postcard in the mail.

Mr. Dominique Depaz, a resident who lives on Lake Dalhousie on CR 46A, opined that his home and home value could be impacted. He asked how deep the applicant intended to dig, since once a certain amount of dirt is removed, if the elevation of the sand is lower than the other lakes, water will flow from one to another due to seepage, even though they maintain the water level.

Ms. Penelope Hudson, an adjacent property owner, expressed concern about noise as well as the wells and septic tanks of nearby property, and she commented that a lot of her neighbors were not informed of this public hearing before she informed them about it. She mentioned a mining law stating that something needed to be filed by May 8, 1990 in order to reopen that mine.

Mr. Joe Lobato expressed concern about what happens when the clay layer is fractured, and he wondered why the road of the proposed project have to come out to the populated area and not further west away from adjoining homeowners.

Mr. Ben Champion from Good Earth LLC which owns about 100 acres north of the subject mine and which is granting an easement to the mining company stated that he is there to support the proposal, and they hope to develop their property at a one house to five acre subdivision at some point in the future with upscale homes similar to the ones around Lake Dalhousie. He opined that they see this project as a win for Lake County which would bring in revenue and jobs, and he pointed out that that land was previously a sod mine and cattle ranch, resulting in a dreadful water quality of the seasonal wetland and invasive species of plants growing in the area, which he believed would hinder the highest and best use development. He noted that the applicant approached him about an easement across their property rather than using the site's own access which was in the middle of several residential properties, but he did think the residents' concerns were reasonable. He concluded that after the mining process is complete, there will be a nice, clean lake with native species and good water quality which would support high property values similar to the homes already in the area.

Mr. Richard Gonzalez, Vice President of Center Lake Properties, which is adjacent to the proposed site, read a letter he sent to Mr. Steve Greene, Chief Planner, which referenced a packet of information shown chronologically including the most recent application for the mining plan and expressing a concern about an accidental mine discharge into the lake, potential expansion of the peat mine to the adjacent areas by St. Johns, detrimental effect to the value of their property, environmental degradation, effect on the aquifer and the wells in the area, amount of trucks entering and leaving the site, hours of operation, and noise. He mentioned that he filed a petition and got a letter back from the Corp of Engineers stating they would consider his request to challenge the permit, and he also recently sent a letter to DEP filing a request for extension of time for an administrative hearing under Section 120.569 and Section 120.57 F.S. He stated that all property owners should be notified of the application which requests that the peat mine operate there, and he noted that he did not receive any notification of the mine reactivation from the County, although he

did receive a blue notice from the County. He opined that more information is required on mine operations so the impact on the area could be properly evaluated by appropriate professionals, and he believed a dust containment program needed to be in place to prevent wet or dry spillage from blowing onto the roads and properties. He also predicted that the dams will break, since he did not believe they were strong enough to withstand severe weather conditions, and he commented that no discharge should be allowed into the lakes. He opined that the abundant birdlife in the area which included eagles, hawks, and owls would be detrimentally affected by the mining operations. He concluded that although he is not against mining in general, he believed it should be done in the right area with the right concerns and controls with large companies with big bonding capabilities to take care of any issue that could occur with mining, such as spills, water degradation, and reclamation, and he noted that mining is a risky business and that most mines fail.

Mr. Stan Bainter, a longtime resident on CR 44A, commented that although he came to this hearing with an open mind, after listening to the comments made, he was not in favor of this request; and he noted that a lot of the information provided regarding this project is confusing. He asked if the loads exiting the property were going to be wet or dry, since he was concerned that a wet load would leave mud all over the roads, and he opined that the traffic in the area was already heavy and did not need any additional truck traffic, since that area was already used as a shortcut from Mount Dora to Umatilla by a lot of large trucks. He expressed concern about the noise and disturbance to the wildlife. He mentioned that there were development permits already filed for the future, and he believes a traffic count is necessary before a decision is made regarding this project.

Ms. Linda Bystrak, a member of the Lake County Water Authority, the Oklawaha Valley Audubon Society, and the Conservation Committee, noted that she has been participating in DEP's BMAP (Basin Management Action Plan) since 2005 which is charged with restoring the area's lakes. She opined that Trout Lake is the most polluted lake in the Harris chain, but they found when they looked into the cause that there were no septic tanks and only a minimal number of storm drains there, with the only apparent cause being Hicks Ditch, which drains from that peat mining area into Trout Lake. She pointed out that the applicant stated that peat holds nutrients like a sponge, and she had concerns about disturbing that and releasing those nutrients into the lakes, making the situation worse. She suggested that an impact study needed to be done before they go any further.

Ms. Joan Bryant, President of Trout Lake Nature Center, commented that the impact that a commercial mining operation would have on the entire area should be looked at and noted that while there already are some residents in the area who will be impacted by the project, there will be a lot more residents in the area over the next ten years of this project because of potential development. She illustrated on a map of the area the location of Trout Lake, Lake May Preserve, St. Johns Management District conservation land, and the site of the mining operation, and she related that this area has the potential of becoming an environmental recreation area that will attract people from outside the county with an addition of a planned paved trail connecting Trout Lake Nature Center and Lake May Preserve running through the City of Eustis land and St. Johns land, which can also connect with trails that are planned for Mount Dora, Eustis, and Tavares. However, she opined that a commercial mining operation right in the center of all of that would create more problems that would hinder a lot of that development, and she commented that this was an important decision that would affect the potential of an entire area rather than the zoning of one piece of property. She also requested to be informed of everything that is provided related to this project.

Ms. Katherine Cook, who lives on CR 450A across the street from the site on the property which used to be LJ's, mentioned that she just bought this property consisting of 84 acres for raising an exotic breed of horses and expressed concerns about truck traffic disturbing her horses. She related that she had done research indicating that the peat moss acts as a sponge to hold nutrients and filter

the contaminants from the water, and she wondered what would keep the water clean after the removal of the peat. She noted that they had bears, bobcats, otters, eagles, and a lot of wildlife present in the area, and she believed that the value of their property as well as the quality of their lives would be negatively impacted by the proposed project. She expressed another concern about releasing carbon into the air as a result of disturbing the peat moss.

Mr. Michael Hurley, who lives a half mile from the proposed site, mentioned that his brother, David Hurley, lives on CR 450A next to Ms. Cook and employs over 400 people, and he commented that he was concerned about how this project would affect the safety of the roads. He stated that he also believed in nature and was concerned about the impact to the earth, the quality of life in their area, and the noise and traffic that the project will bring. He mentioned that the use of peat for heating was banned in Ireland. He asked for the Board's support, and he concluded that he believed they should do what is right for the community, their future, and future generations.

Mr. Reiner, the Applicant, related that he has been responding to similar feedback from the DEP for over three years, and he encouraged everyone to go to the DEP website for the full hydrology reports and water reports that were done, which he believed would address their concerns. He stated that the area would go into conservation easement after the project is complete. He noted that they were in this business for 32 years, and he pointed out that they were required to post a reclamation bond to ensure that the property will be protected and reclaimed despite what happens to his company. He explained that DEP required them to have the dike cored by Universal Engineering to ensure the integrity of the dike, and they have to further add another three feet to the dikes to be able to withstand a 100-year 24-hour storm event, which will be a large undertaking for them. He noted that they did not use a dredge, would not exceed the depth of the peat of nine feet, and were required to put back a one-foot layer of peat on the bottom as part of the reclamation. They were also required not to go into the aquifer or to excavate sand, clay, or other materials as well as required to supplement it with plantings in order to put back 80 percent of high-quality vegetation, whereas the site currently consists of 80 percent invasive plants. He assured everyone that of all the projects they have done in Lake County, they have never affected anyone's well or septic system and that they will not affect the quality of water of the surrounding areas. He added that they are required to obtain an industrial wastewater permit from DEP which would necessitate the discharge of water into irrigation heads on a designated sprayfield in the case of a 100-year 24-hour storm event; otherwise, they are not allowed to pump off of that site. He also explained that they will complete the reclamation of each section before going on to the next section to allow vegetation to slowly come back into that area. He calculated that they would haul 40-45 yards of material after it has dried, which would take an average of about nine trucks per day for five days a week to do that project, and he pointed out that their company only owns a total of seven trucks.

Mr. Fred Crabill, President of Southeast Environmental Solutions and an environmental biologist who has worked for almost 40 years doing wetland and threatened and endangered species work in Florida, stated that although he understood everyone's concerns, there have been answers to those questions, since they have been working with DEP on a mining permit for over three and a half years in which DEP has done environmental, hydrogeological, geological, and water flow reviews. He commented that he was interested in this project to be able to design mitigation wetlands to take the place of the degraded wetlands due to past land uses that the staff has identified for the last 50 years with a lot of nuisance and invasive species, which does not do the wildlife any good and actually cuts down wildlife habitat usage and the diversity of plants present in a natural system. He opined that they had a good plan for a win-win situation, and he assured that anything that is stirred up in the process would be removed by removing the point source, leaving a healthier and more natural environment and better water quality, although there would be a temporary land use disturbance. He reported that after being reviewed extensively, this project is in the final stages of being permitted by

DEP. He specified that wood storks have an optimum feeding habitat of about two feet in certain areas, and they did a survey showing that they would be bringing more suitable foraging habitat areas for those storks after they restore it. He opined that he would not have any hesitation of moving to this area himself with the mining activity going on there.

Mr. Bryan asked whether there was a release of nutrients that could potentially flow offsite and damage any of the other lakes.

Mr. Crabill responded that although he is not an expert on that matter, he knows that the peat is mined within the cell, and the water is moved within the perimeter of three cells and is not discharged to the rest of the area; also, the point source of the peat is being taken out and new vegetation which will uptake those nutrients will be planted.

Mr. Bryan asked whether the existing situation is a source of contamination offsite.

Mr. Crabill responded they found that the Hicks Ditch could be a source of contamination, and since the potential for downstream contamination would be removed if the source is removed, it does not make sense to him to leave that source the way it is.

Mr. Joe Labado asked how long after the reclamation would it take for the area to come back to its natural state.

Mr. Crabill responded that they were dealing with a pervasive wetland reclamation, and most DEP permits put a five-year time limit on it. He recapped that they were doing this reclamation in cells, and he indicated that they expect good progress in the first cell by the time they get to the third cell. He concluded that he believed that it will return to its natural state within five years after everything has been completed.

Mr. Riemer pointed out that there was a perpetual flowage easement off of that property in the public record which allows for water to be pumped off of that site and go to Hick Ditch, although it would not be beneficial to do so and they do not plan to do that.

The Chairman closed the public hearing.

Mr. Gonzalez commented that he thought it was interesting that the applicant got this far in the permitting process before going through the CUP process. He also expressed concern about how this would affect Lake Eldorado.

Mr. Bryan agreed that the applicant had gotten far in the process and noted that a lot of time and money has been spent on this so far. He clarified with staff that this would require a traffic study.

MOTION by John Ameri, SECONDED by Timothy Morris to APPROVE MSP#12/11/1-5, Pine Meadows Peat Mine, amended to eliminate Saturday as a work day and requiring a westerly exit only onto CR 450 onto 19.

FOR: Morris, Ameri, Bryan

AGAINST: Miller, Gonzalez

MOTION CARRIED: 3-2

AMENDMENTS TO LDR**Tab 4 Ordinance 2012-XX Lake County Floodplain LDR amendment**

Ms. Anita Greiner, Chief Planner, explained the background for the change, stating that the Florida Building Commission recently revised the Florida Building Code for buildings and structures located in flood hazard areas, making it necessary for Lake County to coordinate their floodplain management regulations to those in that revised code in order for the County to continue to participate in the National Flood Insurance Program. She specified that there were two changes to the proposed ordinance; the first change was to strike the additional anchoring requirements for mobile homes under 9.07.09.C Anchoring on page 42. She then noted the second change on Page 75 and explained that any kind of utilities or equipment has to be 18 inches above base flood, including plumbing; however, she noted that this does not include waste lines, since those have to go under the slab. She pointed out that the changes in the ordinance do not change any of their current processes for the permits or the elevation requirements.

MOTION by Timothy Morris, SECONDED by Rick Gonzalez to APPROVE Lake County LDR amendment to the Floodplain Management Ordinance 2012-XX with the changes recommended by staff.

FOR: Kesselring, Gonzalez, DeWitt, Ameri, Bryan

ABSENT: Miller, Morris

MOTION CARRIED: 5-0

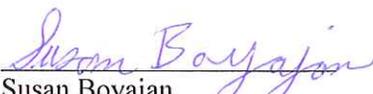
OTHER BUSINESS

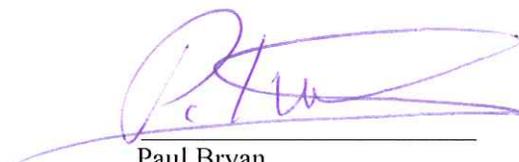
Mr. Greene reminded everyone that the next Planning and Zoning meeting will be November 28, 2012 in Chambers, which was moved up a week due to the Board of County Commissioners' schedule.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:20 a.m.

Respectfully submitted,


Susan Boyajan
Clerk, Board Support


Paul Bryan
Chairman