

## MINUTES

### Levy County Planning Commission February 2, 2004

The Levy County Planning Commission was called to order by Chairman Susan Haines. Other members present were:

Vaughn Lee  
Duncan McCallum  
Gene Pollock  
Kenneth Crosby (alternate)

Also present was County Attorney Mr. Greg Beauchamp, Development Department Director Mr. Rob Corbitt and County Planner Mrs. Kathy Winburn.

Chairman Haines called for a motion to either approve or deny the minutes from January 5, 2004 as presented. Mr. McCallum motioned to approve the minutes as presented. Mr. Pollock seconded the motion; motion carried.

Chairman Haines noted that the major portion of the attendants were present for the Special Exception for White Construction and that there were some additional petitions that will be heard first on the agenda.

Chairman Haines asked Development Director Mr. Rob Corbitt to present the item of business.

#### **Tabled Business:**

**PETITION NO. FP 11-03** Croft Land Surveying representing Mark Porath, petitioning the Board for a Final Plat of "Tameron Acres," a subdivision located in that portion of the N ½ of Section 6, Township 13S, Range 18E, in Levy County, lying East of the Farms at Williston Unit 1. Said parcel contains 71 acres more or less. This parcel is located within an Agriculture/Rural Residential "A/RR" zone.

Mr. Croft was present to discuss this petition.

Chairman Haines called for any opposition from the audience. None was present. Chairman Haines closed the floor to discussion. After a short discussion Chairman Haines called for a motion to this item. Mr. Pollock motioned to recommend approval of the final plat of "Tameron Acres" to the Board of County Commissioners as presented. Mr. Lee seconded the motion; motion carried. All members voted "aye".

**New Business:**

**PETITION NO. PP 6-03** McMillen Surveying representing Wade Bullock (Camellia Plantation, Inc.), petitioning the Board for a Preliminary Plat of "Camellia Plantation Phase 2, Replat of Lots 9 & 10" a subdivision located in Section 1, Township 13S, Range 18E, in Levy County. Said parcel contains 21 acres more or less and is located within a Rural Residential "RR" zone and has a land use designation of "MDR" Medium Density Residential.

Mr. McMillen was present to discuss this petition.

Mr. McCallum asked if there were any comments from the City of Williston. Mr. Corbitt responded by saying a letter was sent to the city and they concurred with the proposed plat. Chairman Haines called for any opposition from the audience. None was present. Chairman Haines closed the floor to discussion. Chairman Haines called for a motion to this item. Mr. McCallum motioned to recommend approval of the preliminary plat of "Camellia Plantation Phase 2, Replat of Lots 9 & 10" to the Board of County Commissioners as presented. Mr. Pollock seconded the motion; motion carried. All members voted "aye".

**PETITION NO. PP 7-03** Croft Land Surveying representing Lawrence Welter, petitioning the Board for a Preliminary Plat of "Hall Place," a subdivision located in the SE 1/4 of Section 36, Township 13S, Range 18E, in Levy County. Said parcel contains 30 acres more or less and is located within an Agriculture/Rural Residential "A/RR" zone.

Mr. Croft was present to discuss this petition.

Chairman Haines called for any opposition from the audience. None was present. Chairman Haines closed the floor to discussion. After a short discussion Chairman Haines called for a motion to this item. Mr. Pollock motioned to recommend approval of the preliminary plat of "Hall Place" to the Board of County Commissioners as presented. Mr. Crosby seconded the motion; motion carried. All members voted "aye".

**PETITION NO. FP 12-03** Pardue Land Surveying representing Ron St. John, petitioning the Board for a Final Plat of "Sterling Run," a subdivision located in the NE 1/4 of Section 11, Township 12S, Range 14E, Levy County, Florida. Less and Except the North 660' of the East 1320' of the said NE 1/4 of Section 11, and the right-of-way for County Road 341. Said parcel contains 140.04 acres more or less. This parcel is located within an Agriculture/Rural Residential "A/RR" zone.

Mr. Pardue was present to discuss this petition.

Chairman Haines called for any opposition from the audience. None was present. Chairman Haines closed the floor to discussion. After a short discussion Chairman Haines called for a motion to this item. Mr. McCallum motioned to recommend approval of the final plat of "Sterling Run" to the Board of County Commissioners as presented. Mr. Lee seconded the motion; motion carried. All members voted "aye".

**PETITION NO. SE-A 1-04** Robert and Faye Wells, petitioning the Board for an Amendment to Special Exception "SE 5-03" to include Sunday's as part of the days of operation, on a parcel of land located in the SW 1/4 of the NE 1/4 and that part of the E 1/2 of the NE 1/4 lying west of U.S. Highway 19/98, and all that part of the SE 1/4 lying west of U.S. Highway 19/98 and north of Butler Road, in Section 36, Township 15S, Range 16E, in Levy County. Said parcel contains 99.80 acres more or less. This parcel is located within a Forestry/Rural Residential "F/RR" zone.

Mr. Wells was present to discuss his petition.

Chairman Haines called for any opposition from the audience.

Opposition: **Jim and Judy Lesperance** said they were concerned about noise, alcohol and possible camping. **Phillip (last name unknown)** - oppose. **Joseph (Morston?)** - oppose.

Chairman Haines closed the floor to discussion. After a short discussion Chairman Haines called for a motion to this item. Mr. Lee motioned to recommend approval of the Special Exception Amendment to the Board of County Commissioners with the attached conditions. Mr. Pollock seconded the motion; motion carried. Mr. Lee said the findings of fact are that the proposed use will be compatible with the surrounding area and that no adverse impact would be created.

Mr. Pollock, Mr. Lee, Mr. Crosby and Mrs. Haines voted "aye". Mr. McCallum voted "ney".

**PETITION NO. SE 10-03** White Construction Company, petitioning the Board for a Special Exception to allow for Major Mining to establish a limerock mine for the purpose of extracting limestone and limerock for use as construction aggregate. The proposed operation shall include blasting to ready the resource for excavation and crushing. No backfill, including clean debris, construction and demolition debris, clean fill, unsuitable construction materials, solid waste or any other material will be brought to the mine. The proposed site is located approximately 3,900 feet (.73 miles) East of Clay Landing Road (a.k.a.: LCR 401; NW 110<sup>th</sup> Avenue); and 6,900 feet (1.3 miles) North of Manatee Springs Road. Legal Description: 60 acre tract in the SE 1/4 of Section 18 (PI # 00643-000-00), 60 acre tract in the SW 1/4 of Section 17 (PI # 00639-000-00), 20 acre tract in the NE 1/4 of Section 19 (PI # 00644-000-00), 20 acre tract in the NW 1/4 of Section 20 (PI # 0647-000-00). All tracts lying in Township 11S, Range 14E, in Levy County. Parcels are located within an Agriculture/Rural Residential "A/RR" zone.

Mr. Corbitt presented the staff report with the conditions for the proposed special exception amendment along with a summary from the County Engineer Mr. Lee Mills. In addition to these items Mr. Corbitt stated that he had received a letter dated January 9, 2004 from the DEP regarding this petition.

Chairman Haines said that prior to hearing from the applicant, board member Mr. Pollock had something that he wanted to discuss. Mr. Pollock stated that he had been employed by White Construction for a number of years and is currently working for a different employer. He said that he did not feel that this should not be considered a conflict of interest and it would be up to the board whether or not he would be allowed to participate and/or vote.

Chairman Haines asked for any comments from the other board members, there were none.

County Attorney Greg Beauchamp said that he and Mr. Pollock discussed this issue briefly prior to the meeting and he feels that the fact that Mr. Pollock has worked for a previous employer does not create a conflict of interest. He said if the board feels otherwise they should say so. He said that if the application was granted, he felt certain that it would become an issue in terms of due process, but he doesn't think that because Mr. Pollock worked for an employer over a year ago makes it necessarily a conflict of interest.

Chairman Haines again asked for any comments from the board. No comments were made. Chairman Haines noted that she has had the opportunity to serve with Mr. Pollock on the Planning Commission Board for a number of years and has always found him to be objective. She then asked Mr. Phillip Beck (representing the opposition) if he had anything to add.

Mr. Beck stated with all do respect to Mr. Pollock and to the board, he is representing a large number of people that oppose the special exception and do object to Mr. Pollock having a voting privilege.

Mr. Pollock said that he would remove himself from any voting.

Chairman Haines noted that Mr. Pollock has declared a conflict of interest and will remove himself from voting, but will still have the opportunity to participate in the discussion.

Chairman Haines said that if there were to be anyone from either side that will appear as an expert witness they would need to be sworn in for their testimony. Mr. Steven C. Cullen was sworn in by Chairman Haines that his testimony would be true and correct.

Mr. Cullen said that he is a professional engineer and is representative for White Construction. Mr. Cullen then introduced Mr. Douglas Smith as an expert witness. Mr. Cullen said that Levy County Ordinance Chapter 50-850 adopted on September 17, 2002 was intended to prevent only this proposed project. He then presented a brief description of the project and said that he would be able to provide abundant, confident and substantial evidence for the record that will enable the board to make three findings. **1.** The issues discussed in the staff findings are merely the project proximity to Manatee Springs and lack of documentation showing mining as an existing use of the land. **2.** Levy County ordinances prior to 2002 did not directly restrict or limit the use of the property, such direct restrictions and limitations are unique to the ordinance of 2002, which establishes prohibited areas. **3.** Consider evidence and document that mining is actually used on the property, including periods of inactivity normally associated with mining. Mr. Cullen stated that in his professional opinion substantial limerock mining had occurred in the project area and it was further his opinion that such mining and related activities commenced prior to 1970 and continued until at least 1988. Mr. Cullen then said that he has established that mining (such as his clients) is an existing use under F.S. 70.001 and the statute provides for relief or compensation from government actions that affect existing uses. Therefore he asked the board to consider a variance from two of the provisions in Ordinance 50-850.

Chairman Haines called for any support or opposition from the audience.

Opposition: **Phillip Beck**, representing opposition said he was not sure that there was an existing mine. He had correspondence from the DEP that the mine did not exist and that it was a farming operation. Other concerns were traffic flow and safety. Mr. Beck also for the record read a letter that was submitted from Manatee Springs State Park saying that the proposed use will adversely affect the traffic, noise, dust, tranquil natural setting and re-charge area. **Evan Henderson** would like to keep area rural. **Joseph (last name inaudible)** - oppose. **Glenda (last name inaudible)** - number of mines within the same distance, water quality and dust. **Tom Bailey, Board of Directors, Chiefland Golf and Country Club** - opposes - speaking on behalf of 800 to 1000 property owners. **Mark Long** said that the proposed site is not grand fathered in. **Annette Long** says this use will cause nitrate problems, economic viability, will be hazardous to the public health, safety and welfare, decrease property values, noise and the use is not grand fathered in. **Edward Bailey** - oppose. **Mr. Lane Redmond** said it will create a traffic hazard, water contamination and noise pollution. **Paul Harris** said it will cause water pollution; endanger manatees by reducing water levels. He said that White has been mining for a number of years illegally. This use will destroy the natural resources. **Jerry Leary** asked who will reimburse when the wells go bad and feels that it will decrease property values. **Gene LeCosta** said it will decrease property values. **(Inaudible name)** A member of the audience thanked Mr. Pollock and then said this use will cause health issues, decrease property values, endanger the manatees, wildlife, create sink holes and cause water contamination. **Cheryl Thackert** said that it would disturb the tranquility at manatee springs state park, would be detrimental to the wildlife at the park, blasting will affect water. **Helen Day** - oppose. **(first name inaudible) Mrs. Griffith** said that it is nearly in her backyard.

Chairman Haines closed the floor to discussion. After a short discussion Chairman Haines called for a motion to this item. Mr. McCallum motioned to recommend denial with the following findings of fact: 1. Use not compatible with surrounding area 2. Use not consistent with the Comprehensive Plan and Land Development Code 3. Does not meet the requirements of a vested mine. 4. Proposed use is within a prohibited area pursuant to Section 50-850 I. (c) (4), due to its proximity of the Manatee Springs State Park 5. No guarantee that water would not be contaminated. Mr. Crosby seconded the motion; motion carried.

There being no further business for the Levy County Planning Commission, the meeting was adjourned.

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Chairman