

PLANNING AND ZONING COMMISSION

There was a meeting of the Indian River County (IRC) Planning and Zoning Commission (P&Z) on Wednesday, November 19, 2008 at 7:00 p.m. in the Commission Chambers of the County Administration Building, 1801 27th Street, Vero Beach, Florida. You may hear an audio of the meeting; review the meeting agenda, backup material and the minutes on Indian River County website www.ircgov.com/Boards/PZC/2008.

Present were members: Chairman **George Hamner**, Member-at-Large; **Donna Keys**, District 1 Appointee; **Gerard Weick**, District 2 Appointee; **Craig Fletcher**, District 3 Appointee; **Greg Smith**, District 4 Appointee; **George Lawrence**, District 5 Appointee; and **Dr. Richard Baker**, Member-at-Large.

Absent was and **Carol Johnson**, non-voting School Board Liaison. (excused).

Also present was IRC staff: George Glenn, Assistant County Attorney; Bob Keating, Community Development Director; Stan Boling, Planning Director; Jim Davis, Public Works Director; Chris Mora, Assistant Public Works Director; Roland DeBlois, Chief of Code Enforcement and Environmental Planning; and Reta Smith, Recording Secretary.

Call to Order and Pledge of Allegiance (7:15:00)

Chairman Hamner called the meeting to order and led all in the Pledge of Allegiance.

Public Hearing (7:16:09)

Chairman Hamner read the following into the record:

- A.** Consideration of Amendments to Mining Regulations in LDR Chapters 911, 934, and 971 **[Legislative]**

Mr. Stan Boling, IRC Planning Director, recapped the P&Z recommended changes to mining regulations had been presented to the Board of County Commissioners (BCC) on September 16, 2008 and again on October 6, 2008. Mr. Boling summarized the BCC had decided to treat it as an administrative permit use; however on November 4, 2008 they had directed IRC staff to advertise tonight's P&Z hearing and a subsequent

BCC meeting on December 8, 2008 to again consider the special exception use.

Mr. Boling reviewed the information contained in the backup and gave a PowerPoint presentation, a copy of which is on file in the Commission Office (7:20:37).

Mr. Boling stated there were two options before the P&Z tonight, those being to keep mines as an administrative permit use with expanded notice and have a criterion that even though it was an administrative use, it must be treated as a public hearing and allow public input; and the other option would be to treat it as a special exception use with a P&Z hearing and recommendation to the BCC.

Discussion followed about monitoring wells and hydrology reports (7:49:13).

Ms. Keys said it appeared if an applicant had to pave a road he would not just pay a proportionate share and get reimbursed from another mining operation or subdivision going into the area at sometime in the future (8:04:06). Mr. Boling explained it was a lot like paved road requirements the County had for other developments, and if an applicant was producing enough traffic they would have to locate where a road was already paved or where it was economically feasible for them to pave a road. He added it was staff's recommendation to keep the paving threshold at what it was, regardless of whether it was in AG-1, 2 or 3 areas.

Traffic citations, penalties on haul routes and appeal fees were discussed (8:07:19).

Chairman Hamner opened the public hearing at 8:01 p.m.

Mr. Robert Adair, Chairman of the IRC Agricultural Advisory Committee, requested a hydrological study be done to look at existing data and then make decisions on what type of impact mining could have on ground water (8:18:23).

Discussion ensued.

Mr. Victor Knight (8:26:27), noted there were currently seven active mines in the unincorporated County and asked how many mines had been permitted over the last five years. Mr. Boling stated mining applications

tended to come in waves and there had just been a phase during the construction boom and State Road 60 expansion. Mr. Knight felt it was important to have mining as a special exception use because of all the controversies.

Ms. Mary McGuire Smith, 6625 West 82nd Avenue (8:33:37), recommended Section 934.05, section 4(a) on page 14 of the backup should delete the word "or" and be replaced with the word "and" because she believed muffler systems should be in place on every single piece of equipment and be placed either behind a berm or below ground level.

Ms. McGuire Smith continued on 934:05, section 4(g) on page 15 mentioned 2.3 passenger cars being equivalent of one haul truck would probably mean an unloaded truck because of the weight level. Mr. Jim Davis, IRC Public Works Director (8:39:14), explained it was not a weight issue but was responsive time so people could pull out onto the road, and a truck that was either loaded or unloaded was approximately 2.3 times less responsive than a car.

Ms. McGuire Smith took issue with 934.05, section 4(h) because 240 truck trips per hour meant one truck per 15 seconds would go past her house, which she maintained was unacceptable. Chairman Hamner pointed out the IRC Public Service Advisory Committee (PSAC) had recommended the limit be dropped completely and there be no frequency regulation.

Discussion followed about what time of day the trucks had to quit hauling to the mine site (8:49:15).

Ms. McGuire Smith supported the recommendation to the BCC for approval of Option number One for special exception use.

Ms. Suzanne Franskey, 8190 37th Street (9:01:15), complained about the condition of the roads and number of trips allowed and mentioned a concern for proper enforcement of mining truck haulers. She expressed a desire for special exception use for mining.

Mr. George LaTour, 2332 Vero Beach Avenue (9:11:37), asked about level of service and frequency standards of trucks on approved haul routes and wondered if he could purchase haul rights for a mining operation on land he owned. Mr. Bob Keating, IRC Community Development Director, explained County concurrency rules said an individual could get a three year certificate only if they were at certain

stages in the development process. Mr. LaTour agreed mining should be special exception.

Discussion ensued.

Mr. Ital Veron, Indian River Shores (9:24:54), spoke in favor of special exception for mining.

Ms. Susan Boyd, 8025 24th Street (9:30:42), iterated the concerns she had expressed at previous meetings and asked the P&Z members to approve Option One of staff's recommendation.

Chairman Hamner called a recess at 9:20 p.m. and reconvened the meeting at 9:30 p.m.

Mr. Chuck Cramer, 10761 U.S. Highway #1 (9:37:02), took issue with the \$10,000 the County wanted for review of a mining operator's hydrology report. He noted in phasing of the mine it used to be you could open up a section and then bond a second section and excavate that section also, but now it was proposed you could do it with a stipulation to only have 20 acres open at any one time. Mr. Cramer felt that was defeating a purpose the County was trying to achieve because at present you could dewater from one section into the section behind you, which achieved the goal of trying to retain the water on site; but you could not do that if you had to do 100% restoration behind you because you could never maintain the littorals.

Mr. Cramer disagreed with the necessity to pave roads if a mining operation exceeded 500 trips per hour and the need for 300 foot setbacks from public conservation lands or easements.

Discussion followed about what the new regulations would mean to existing mines.

Mr. Cramer wanted mining operations to stay at the administrative permit level.

Attorney Tyson Waters (10:05:40) felt the County should exempt pending mining applications that had been filed, submitted and processed under one set of rules, and now the regulations were being changed. He pointed out a clerical error in the backup whereby both Option One and Option Two set forth procedural process for review of the site plans; however in reality Option One had the BCC consideration and Option Two

did not. Attorney Waters drew the members attention to page 13 of Attachment 13 and page 11 of Attachment 14 in the backup, and said he felt the proposed setbacks and requirements for offsite wetlands was unreasonable because it was difficult to delineate what those offsite wetland boundaries were.

Attorney Waters thought it was a good idea to allow unpaved as long as there was suitable road base material, but felt the term "suitable" needed to be defined. He did not agree with the regulation for a new mining applicant to have to pave a road if an existing mine was on the same haul route and the combined trips would exceed 500 per day.

Attorney Waters felt the language in the backup should be clarified to express full restoration was not necessary and there was an understanding some of the prior phase would be used for certain purposes. He mentioned there might be a due process issue with the compliance and violation issue and arrangement, because he thought there should be another step where if a mining operator contested a notice of violation he would have an opportunity to address it before being penalized.

Mr. Roland DeBlois, IRC Chief of Code Enforcement and Environmental Planning; explained how the process worked. IRC Assistant County Attorney George Glenn said he would take a look at the issue to make sure it did not run afoul of any due process concerns and also make sure if a person had two penalty hearings and the BCC agreed there was no violation, the mining permit would not be revoked in the event of being charged with a third violation.

Attorney Waters felt the administrative permit process was working and Option Two was the most appropriate avenue.

Mr. Tom Hammond, 4683 Pebble Bay Circle (10:22:17), outlined why he thought the County should stay with the administrative permit process. He felt it would be difficult to control independent drivers versus those associated with a mine and he did not think a mine should be held responsible. He suggested as an alternative allowing drivers two strikes and they would be out. Mr. Hammond suggested assigning some time of responsibility for road maintenance on haul routes used by multiple mines so each mine operator would know when they were responsible for the road's maintenance and work together.

Mr. Steve Smith (10:26:25) said he owned a sand mine on 82nd Avenue next to Mr. Hammond and concurred with the idea of a signed maintenance agreement for shared roads. Chairman Hamner wondered if this could be incorporated into renewal permits for existing mines, and Attorney Glenn said he would look into it.

Mr. Smith thought it was an unfair burden to assess existing mine owners if a new mine came in and hit a paving threshold. He stated 10 days was a fairly short amount of time to prepare a case if someone was being called before the Board and potentially losing \$25,000 and suggested a longer notice period of 21 days.

Discussion followed about whether or not trucks could be repaired on a mining site after normal hours of operation.

Mr. Sean Sexton, 7880 37th Street (10:43:18), was in favor of special exception status for mining operations.

Ms. Linda Mitchell, 8340 65th Street (10:45:16), complained about the condition of the road heading north of the mines on 82nd Avenue after a rainstorm on weekends.

Chairman Hamner closed the public hearing at 10:43 p.m.

Chairman Hamner suggested the members have a consensus on each item. Mr. Fletcher, Dr. Baker and Mr. Weick wanted to put a muffler on all engines and eliminate the word "or" on page 14, Item 4(a). Chairman Hamner suggested deleting the word "turbo-style" mufflers. Ms. Keys noted you could not put a crusher below ground level and muffled. After discussion it was the consensus it should read "pumps, crushers and processing equipment, etc. used on site shall be equipped with mufflers, placed behind berms or located below surrounding ground level".

It was the consensus to send a mining application notice to all residents living on a proposed primary haul route.

It was the consensus the phasing requirements should be clarified so mine operators should be allowed to back pump as they go and the littoral zones should be done only at the time of restoration.

It was the consensus the applicant should be required to obtain a permit from the St. Johns River Water Management District before coming to the County.

It was the consensus to define suitable road base material as approved by the IRC Public Works Director.

Chairman Hamner noted it was 11:00 p.m. and the meeting could either be extended to another time and special meeting date or tonight's meeting could be extended.

11:04:56

ON MOTION BY Mr. Fletcher, SECONDED BY Ms. Keys, the members voted unanimously (7-0) to extend tonight's meeting for 15 minutes, until 11:15 p.m.

It was the consensus to maintain paving threshold requirements for mines/haul routes at 500 average daily trips (AADT) in AG-1 areas; raise it to 1,000 AADT in AG-2 areas and eliminate paving thresholds for haul routes in AG-3 areas.

It was the consensus to clarify the penalty requirements by stating progressive penalties applied only if the BCC had imposed penalties for violations at previous penalty hearings and if a mining operator contested a notice of violation he would have an opportunity to address it before being penalized.

It was the consensus to clarify that regardless of when the initial mining permit was obtained all subsequent annual permit renewals must be submitted in the fall of each year on or before November 1st.

Mr. Weick iterated his concern about lack of proper enforcement (11:17:03). Mr. Fletcher felt this would be something the BCC would have to address.

11:17:18

ON MOTION BY Mr. Fletcher, SECONDED BY Mr. Lawrence, the members voted unanimously (7-0) to recommend the Board of County Commissioners approve Version One of staff's recommendation, with the above-noted exceptions.

Attorney's Matters (11:17:45)

None.

Commissioners Matters (11:17:51)

None.

Planning Matters (11:17:54)

None.

There being no further business, the meeting was adjourned at 11:12 p.m.

George Hamner, Chairman

Date

Reta Smith, Recording Secretary

Date