

Planning & Zoning Commission  
Consideration of Amendments to  
Mining Regulations in LDR  
Chapters 934 and 971

November 19, 2008

- Moratorium on accepting or processing applications for new mines
  - Address nuisance problems and environmental concerns
- Began January 7, 2008
- Ends January 7, 2009
- Cannot be extended
  - Statewide “aggregate crisis”

- PZC and staff charged with researching issues, reviewing and work-shopping mining regulations
- PZC and staff conducted 1 background meeting, 1 mobile workshop, and 4 public workshops on environmental, traffic/nuisance, compatibility/notice, compliance/enforcement
- PZC made 38 recommendations for mining regulation changes

- PZC recommendations presented to BCC September 16<sup>th</sup> and October 6<sup>th</sup>
- BCC agreed in concept to most of PZC's recommendations, with adjustments
  - November 4<sup>th</sup>: advertise to allow special exception as an option
- Draft ordinance based on BCC's direction, with some changes recommended by PSAC

- LDR amendment timeline
  - October 23<sup>rd</sup> PSAC
  - November 19<sup>th</sup> PZC special hearing 7:00 pm
  - December 8<sup>th</sup> BCC 5:01 pm
  - December 19<sup>th</sup> BCC second hearing if needed

# WORKSHOP ITEMS

- Input from experts, residents, the general public, industry representatives
  - AAC
- IRC geology: recoverable materials, confining layer
- IRC mining: materials, scale, unique duration (10 years)
- Primary nuisance related to haul truck traffic
- Compliance and enforcement need more teeth

# WORKSHOP ITEMS (cont'd)

- Rely on agency expertise but assist with data and monitoring (accept agency format).
- Continue to allow in AG-1, AG-2, and AG-3 areas with special regulations. Factors:
  - what's worked,
  - logistics/costs/impacts,
  - takings challenges.
- Special exception vs. administrative permit with special notice and appeal option.

# DRAFT REGULATION CHANGES

- “Non-workshop” changes
  - Incidental to construction (small, medium, and large)
    - Clarify timeframes and procedures
    - Retain basic requirements (specific to size)
  - Single family ponds
    - Retain as “accessory”, no fill off-site
    - Allow pond larger than  $\frac{1}{2}$  acre if needed for on-site fill

# DRAFT REGULATION CHANGES (cont'd)

- “Workshop” changes
  - Pre-existing mining operations: continue; subject to annual permit, compliance/enforcement, site restoration regulations
    - If new security, follow security criteria
  - New mining operations must follow all regulations

- Procedural Sequence
  - (a) Discussion or “pre-application” meeting with SJRWMD.
  - (b) Traffic impact methodology meeting with Public Works/Traffic Engineering.
  - (c) Site plan pre-application conference.
  - (d) Formal site plan submittal.
  - (e) Initial TRC review.
  - (f) Final TRC review.

- Procedural Sequence (cont'd)

- (g) Planning & Zoning Commission hearing.

- 1. Potential appeal to BCC (if AP use)

- OR**

- 2. Board of County Commissioners hearing (if special exception use)

- (h) Initial annual mining permit.

- 1. Annual dry season and wet season inspections

- (i) “Pre-construction”/site work meeting with staff.

- (j) Annual mining permit renewal.

- (k) Site restoration and final inspection/close-out.

- Mining site plan submittal requirements
  - ❖ Groundwater and environmental: centered on SJRWMD, NPDES, DOH
  - ❖ Baseline data
  - ❖ Hydrology report specifications
    - County authorized to charge applicants for county-hired expert (not to exceed \$10,000)
  - ❖ Ensure county site plans/permit drawings meet agency requirements
  - ❖ Infrastructure impacts identified/evaluated up front
  - ❖ Tied to initial submittal or re-submittal

- Special standards
  - ❖ Excavation above confining layer
  - ❖ Deep wells: upgrade, plug, setback
  - ❖ Setbacks from preserved on-site/off-site wetlands, uplands; shallow aquifer public wells
  - ❖ No blasting or active chemical agents
  - ❖ Noise and dust control/bmps
  - ❖ Hours of operation next to ranchettes (existing) applied east of I-95

- Traffic

- ❖ Haul route defined (from site to paved major intersection)
- ❖ Unpaved routes 24' wide, 12" gradable base
- ❖ Paved routes 24' wide, county major road specifications
- ❖ Pave if averaging over 500 haul truck trip ends/day (500 AADT)

- Traffic (cont'd)
  - ❖ Evaluate haul route and intersection LOS using PCEs for haul trucks
    - Uses AADT; 15% peaking factor
  - ❖ Limit frequency of haul trucks on two lane haul routes:
    - Each mine: 120 trip ends/day (60 outbound/60 inbound)
    - Allow exceptions for special/large deliveries with MOT plan
    - Haul route: cumulative not to exceed 240 trip ends/day

- Compliance & Enforcement
  - ❖ Pre-construction meeting
  - ❖ Updated site plan/sketch at time of annual permit renewal
  - ❖ Wet season and dry season inspections (fee from \$62 to \$360 per year)
  - ❖ Security: updated cost estimates for restoration vs. fixed rate per acre
    - Same form as subdivision maintenance security (cash, escrow deposit, loc, bond AM Best A-VI)

- Compliance & Enforcement (cont'd)

- ❖ Road maintenance bond forfeited to cover county cost to fix road
  - Forfeited if road not fixed within 3 working days of written notice from Public Works
- ❖ Potential violation with immediate correction: no penalty
- ❖ Not corrected immediately but corrected before compliance date: “Formal Resolved Violation”
- ❖ 5 or more Formal Resolved Violations in 1 year: BCC penalty determination hearing
- ❖ Failure to correct any 1 violation by compliance date: BCC penalty determination hearing

# BCC Penalty Determination Hearing

- 10 days notice to adjacent property owners, mine owner, mine operator
- BCC hears evidence and considers:
  - Operator/owner responsiveness to correct violation
  - Severity of violation and negative impacts
  - Number of violations
- For life of mining operation (10 years)
  1. First penalty hearing: forfeit compliance security up to \$25,000
  2. Second penalty hearing: forfeit compliance security with no limit
  3. Third penalty hearing: forfeit compliance, road maintenance, restoration security and terminate mining permit

- Compliance & Enforcement (cont'd)
  - ❖ Traffic violations for truck drivers constitutes a Formal Unresolved Violation  
(This provision is subject to legal opinion)
  - ❖ BCC can require “penalty” of operator to contract for special traffic law enforcement on his haul route

- 971 Changes

**OPTION**

- ❖ Remains Administrative Permit Use with expanded notice, public input at PZC

**OR**

- ❖ Changed to special exception use: PZC and BCC public hearings, special exception standard of review
- ❖ Clarify mining site access (major road or local road/driveway with user approval)

**OTHER ITEMS**

- ❖ Sites in AG-1, AG-2, or AG-3 only
- ❖ Special and expanded notice:
  - ½ mile of project site
  - 1 mile along proposed haul route in both directions

**Proposed Mining Regulation Amendments:  
Implementation of Planning & Zoning Commission 38 Recommendations**

| <b>PZC Recommendation</b>                        | <b>Addressed in Proposed Ordinance</b>  |
|--|---|
| <b>•Surface Waters/Discharge</b>                 |   |
| 1. Require pollution prevention plan/use of bmps | <ul style="list-style-type: none"> <li>•934.05(1)(c): Pollution prevention plan specifications established, use of bmps required.</li> <li>•County bmp list created (attachment #9).</li> </ul>       |
| 2. Require baseline data on water quality        | <ul style="list-style-type: none"> <li>•934.05(1)(a) and 934.06(1)(a): Upfront coordination with SJRWMD required: water quality standards and regulation deferred to SJRWMD</li> </ul>                |
| 3. Monitor discharge quality                     | <ul style="list-style-type: none"> <li>•934.06(2)(h): SJRWMD discharge and monitoring requirements noted on site plans. Site plan and pollution prevention plans enforced by county staff.</li> </ul> |

| PZC Recommendation  | Addressed in Proposed Ordinance   |
|---|---|
| <p>●<b>Surface Waters/Discharge (cont'd)</b></p>                                      |   |
| <p>4. Require baseline data on surrounding wetlands and vegetation</p>                | <p>●934.05(1)(n): Baseline observation data required. Jurisdictional and county wetlands assessment requirements applied through site plan process.</p> |
| <p>5. Require applicant to demonstrate no adverse impacts on wetland hydroperiods</p> | <p>●934.06(3)(e): Demonstrating no adverse impacts on plans required; maintaining hydroperiods required.</p>  |

| PZC Recommendation   | Addressed in Proposed Ordinance  |
|--|--|
| <b>•Groundwater/hydrology</b>  |  |
| 6. Require hydrology report  | <ul style="list-style-type: none"> <li>•934.05(1)(d): Report required to be submitted and certified by state certified professional engineer or geologist.</li> <li>•934.05(1)(h) Authorizes county to charge applicants to pay cost of county-hired professionals to review project hydrology reports.</li> </ul> |
| 7. Establish hydrology report specifications                                 | <ul style="list-style-type: none"> <li>•934.05(1)(d): Detailed report specifications established, baseline data.</li> </ul>  |
| 8. Require that site plans reflect hydrology report recommendations and bmps | <ul style="list-style-type: none"> <li>•934.05(1)(e): Requires written description of how report recommendations and bmps are incorporated into plans.</li> <li>•934.05(1)(h) Requires plans to incorporate recommendations and bmps.</li> </ul>   |
| 9. Require submittal of hydrology report to agencies                         | <ul style="list-style-type: none"> <li>•934.05(1)(e): Requires date of report submittal to SJRWMD noted on the site plan.</li> </ul>   |

| PZC Recommendation   | Addressed in Proposed Ordinance  |
|--|--|
| <p><b>•Groundwater/hydrology (cont'd)</b></p>  |  |
| <p>10. Establish monitoring report specifications</p>  | <p>•934.07(2)(d): Establishes monitoring data and data evaluation requirements for annual mining permit renewal requests.</p>  |
| <p>11. Require testing for soils contamination</p>   | <p>•934.05(1)(f): Soils testing required if need is determined by Health Department.<br/>         •934.06(3)(g): Requires contaminated soils to be handled as directed by Health Department.</p> |
| <p>12. Require applicant to identify, characterize underlying confining layer (e.g. Hawthorne group “aquiclude”)</p> | <p>•934.05(1)(d): Hydrology report required to identify general depth and thickness of confining layer, as well as depth of proposed excavation and any well-drilling activities.</p>            |

| PZC Recommendation   | Addressed in Proposed Ordinance   |
|--|---|
| <p><b>•Groundwater/hydrology (cont'd)</b></p>  |   |
| <p>13. Require applicant to identify and properly address on-site wells</p>                    | <ul style="list-style-type: none"> <li>•934.05(1)(g): Requires on-site well depth, location, condition data on plans.</li> <li>•934.06(3)(c)and (d): Require deep wells to be plugged or upgraded. Also requires setback of 30' from plugged or unplugged deep well to all on site activities.</li> </ul> |
| <p>14. Require site plans to reflect agency permit requirements</p>                            | <ul style="list-style-type: none"> <li>•934.05(1)(e): Requires description of how site and permit plans satisfy agency requirements.</li> </ul>   |
| <p>15. Establish special setbacks from wetlands, native uplands, public conservation areas</p> | <ul style="list-style-type: none"> <li>•934.06(3)(d): Establishes setbacks for deep wells, wetlands, native uplands, conservation lands, city/county potable water surficial wells.</li> </ul>  |

| PZC Recommendation  | Addressed in Proposed Ordinance  |
|---|--|
| <p><b>•Groundwater/hydrology (cont'd)</b></p>                             |  |
| <p>16. Prohibit contact/penetration of confining layer</p>                | <p>•934.06(3)(b): Requires excavation activity above confining layer.</p>  |
| <p>17. Prohibit blasting, use of active chemicals for extraction</p>      | <p>•934.07(3)(g): Prohibitions established.</p>  |
| <p>18. Establish special setback to public potable water supply wells</p> | <p>•934.06(3)(d): Setback established; matches public water supply well setback in existing comprehensive plan policy.</p> |

| PZC Recommendation   | Addressed in Proposed Ordinance  |
|--|--|
| <b>•Traffic &amp; Nuisance</b>   |  |
| 19. Require dust control plan  | <ul style="list-style-type: none"> <li>•934.05(1)(c): Requires erosion control.</li> <li>•934.05(1)(i): Requires a comprehensive dust and spillage control plan.</li> </ul>  |
| 20. Clarify 20 acre phase requirement  | <ul style="list-style-type: none"> <li>•934.07(3)(a): Retains 20 acre phase maximum, clarifies that active pit excavation area cannot exceed 20 acres, and clarifies existing allowance for transitioning between phases if security is posted for both phases.</li> </ul> |
| 21. Require noise modeling that demonstrates compliance with Chapter 974 noise standards | <ul style="list-style-type: none"> <li>•934.05(1)(j): Requires noise modeling that demonstrates compliance with Chapter 974 standards.</li> <li>•934.06(4)(a): Requires satisfaction of Chapter 974 standards and allows for normal operation of vehicles.</li> </ul>      |

| PZC Recommendation   | Addressed in Proposed Ordinance  |
|--|--|
| <p><b>•Traffic &amp; Nuisance (cont'd)</b></p>   |  |
| <p>22. Require noise-producing equipment to be baffled or placed behind berm/placed below ground level</p> | <p>•934.06(4)(a): Requires pumps, crushers, and processing equipment to be placed behind berms or below ground level, or equipped with mufflers or similar devices.</p>  |
| <p>23. Specify practices that prevent tracking and spillage</p>  | <p>•934.05(1)(i): Requires dust and spillage control plan to include methods that prevent tracking and spillage.</p>   |
| <p>24. Establish road surface protections and maintenance standards</p>                                    | <p>•934.08(2): Retains County Engineer authority to require use of devices or improvements that protect pavement edges, curbs, entrances/exits.<br/>         •934.06(4)(e): Establishes improvement/maintenance standards for unpaved haul routes. Addresses vibration concerns. Standards were developed by Public Works.</p> |

| PZC Recommendation   | Addressed in Proposed Ordinance   |
|--|---|
| <p><b>•Traffic &amp; Nuisance (cont'd)</b></p>                               |   |
| <p>25. Require maintenance agreements on shared routes</p>                   | <p>•934.06(4)(i): Requires improvement and maintenance plan that addresses shared responsibilities on shared haul routes.</p>   |
| <p>26. Establish haul route paving thresholds</p>                            | <p>•934.06(4)(f): Establishes haul route paving threshold based on amount of haul truck traffic; establishes paving standards. Threshold and standards were developed by Public Works.</p>  |
| <p>27. Specify haul route criteria and evaluation of haul route adequacy</p> | <p>•934.06(4)(d): Establishes haul route criteria/definition and provides authority for Public Works to determine the haul route.<br/>         •934.06(4)(g): Establishes special LOS evaluation methodology and LOS requirement for haul truck traffic on haul routes and at significantly impacted intersections. Criteria/definition and LOS standards/methodology were developed by Public Works.</p> |

| PZC Recommendation  | Addressed in Proposed Ordinance  |
|---|--|
| <p><b>•Traffic &amp; Nuisance (cont'd)</b></p>  |  |
| <p>28. Specify penalties for truck driver violations</p>                                    | <p>•934.09(d): Establishes haul truck driver traffic citations on the haul route as violations against the mining operation served. Penalties for accumulated violations specified in 934.09.</p>  |
| <p>29. Require up-front assessment of haul route bridge/culvert impacts</p>                 | <p>•934.06(1)(b): Requires an early traffic impact methodology meeting with Public Works.</p> <p>•934.05(1)(k): Requires evaluation of bridge/culvert impacts on haul route as directed by Public Works in the traffic impact meeting.</p> |
| <p>30. Require annual reports to document compliance with site plan conditions and bmps</p> | <p>•934.07(4)(d): Requires applicant's annual reports to verify compliance with site plan and all permits, include monitoring data, and include monitoring summary and description of any instances of non-compliance.</p>                 |

| PZC Recommendation  | Addressed in Proposed Ordinance   |
|---|---|
| <p><b>•Traffic &amp; Nuisance (cont'd)</b></p>  |   |
| <p>31. Consider limiting total amount of truck traffic, and limiting frequency of truck traffic to ensure “gaps” and prevent back-ups at haul route intersections</p> | <ul style="list-style-type: none"> <li>•934.06(4)(g): Establishes LOS standard which limits total peak truck traffic on haul routes and at significantly impacted intersections.</li> <li>•934.06(4)(h): Establishes peak frequency of trips for individual mining operations and cumulatively on shared haul routes. Frequency standards apply only to two-lane haul routes. Limitation standards were developed by Public Works.</li> </ul> |

| PZC Recommendation   | Addressed in Proposed Ordinance  |
|--|--|
| <p><b>•Compatibility &amp; Notice</b></p>  |  |
| <p>32. Restrict mining to AG-1, AG-2, and AG-3</p>                               | <p>•971.22(1)(b)6: Restricts mining to AG-1, AG-2, and AG-3 designated properties.</p>   |
| <p>33. Re-classify mines from administrative permit to special exception use</p> | <p>Based on recent direction from the BCC, two versions of the ordinance are proposed.</p> <p>ORD 1: • 911.06 and 971.22 require special exception approval.</p> <p>ORD 2: • 971.22 requires special administrative permit process that mandates special notice and public input at PZC.</p> |
| <p>34. Require expanded notice: ½ mile from mining site and along haul route</p> | <p>•971.22(1)(b)7: Requires special notice in both versions of the ordinance.</p>  |

| <b>PZC Recommendation</b>   | <b>Addressed in Proposed Ordinance</b>  |
|---|---|
| <b>•Compliance &amp; Enforcement</b>  |   |
| 35. Increase formal site inspections and mining permit fees   | Addressed in attached fee resolution (see attachment #15). Not necessary to include site inspection fees in ordinance.<br><ul style="list-style-type: none"> <li>•934.05(1)(h): Authorizes county to charge applicants for county-hired experts to review project hydrology reports.</li> </ul> |
| 36. Establish clear security forfeiture process with progressive penalties up to termination of mining permit | <ul style="list-style-type: none"> <li>•934.08(3)(a): Establishes process for forfeiting road maintenance security.</li> <li>•934.09: Establishes detailed procedure for progressive penalties for violations.</li> </ul>   |

| <b>PZC Recommendation</b>  | <b>Addressed in Proposed Ordinance</b>  |
|--|---|
| 37. Consider requiring enhanced traffic law enforcement and use of GPS monitoring            | <ul style="list-style-type: none"> <li>●934.09(1)(d): Authorizes BCC to assess mining operators the cost to the county to hire contract traffic law enforcement. Based on BCC direction, no GPS monitoring requirements are proposed.</li> </ul>  |
| 38. Review and update, if needed, the formula for compliance and restoration security amount | <ul style="list-style-type: none"> <li>●934.07(5): Compliance security formula clarified to cover all on-site (cleared) activity areas. Restoration bond formula changed to be based on 125% of engineer's cost estimate, updated every 3 years during life of mine. Road maintenance security calculation remains unchanged (updated 2007).</li> </ul> |

- Fees established by resolution
- Resolution proposing
  - Increased fee for annual mining permit: \$360
  - New fee for expert review of hydrology report, based on hourly rate, total not to exceed \$10,000

# RECOMMENDATION

Staff recommends that the Planning & Zoning Commission recommend that the Board of County Commissioners:

1. Adopt “Version 1” of the proposed mining regulations LDR amendments, which includes changing mining to a special exception use, and
2. Adopt the attached resolution establishing an updated mining permit fee and a hydrology report expert review fee.