

LAKE COUNTY PLANNING AND COMMUNITY DESIGN ANALYSIS PETITION TO REZONE PROPERTY

PLANNING and ZONING BOARD
January 7, 2014



BOARD OF COUNTY COMMISSIONERS
January 28, 2014

PH #21-13-1 Rubin Groves of Clermont PUD	Case Manager: Rick Hartenstein, AICP, CPM, Senior Planner	Agenda Item # 4
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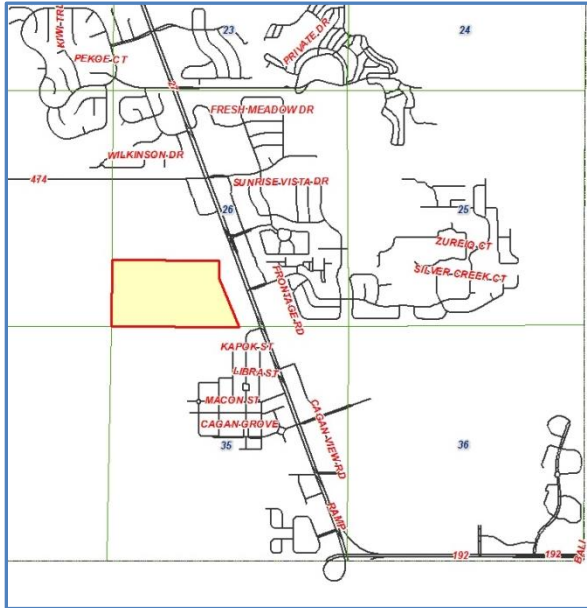
Owner: Rubin Groves of Clermont, LLC / Sheldon Rubin (the "Owner")

Applicant: Rubin Groves of Clermont, LLC / Sheldon Rubin (the "Applicant")

Requested Action: Amend the Planned Unit Development (PUD) Zoning District (Ordinance #2013-8) on 131 +/- acres to allow mass grading and overburden removal exceeding 200% of the stormwater volume requirement of a previously approved Mixed-Use Planned Unit Development within the Green Swamp Area of Critical State Concern.

- Site Location and Information -

Approximate site location shown in red



Size	131 +/- Acres	
Location	Sections 26 & 27 / Township 24S / Range 26E, Four Corners area south of Clermont – west and southwest of the intersection of Woodcrest Way and US 27.	
Alt. Key Number(s)	1595240, 2510480, 1071011, & 1595169	
Future Land Use (FLU)	Green Swamp Ridge	
Zoning District	Existing	Proposed
	Planned Unit Development (PUD)	Planned Unit Development (PUD)
Impervious Surface Ratio (ISR)	45% Max.	45% Max.
Floor Area Ratio (FAR)	25% Max	25% Max
Open Space	40%	40%
Joint Planning Area	None	
Utility Area	Lake Utilities, Inc.	
Site Utilities	Central Water & Sewer (proposed)	
Road District	US Hwy 27 - Arterial Woodcrest Way - Local	
Flood Zone / FIRM Panel	Zone X – Panel #12069C0725D Effective July 3, 2002	
Commissioner's District	1 – Sullivan	

Site Visit(s): December 20, 2013

Sign(s) Posted: December 20, 2013 - (3 Signs)

Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Green Swamp Ridge	PUD & C-1	Undeveloped PUD, Restaurant, & Cafe	None
South	Cagan Crossings	DRI/PUD	Mixture of Single-Family, Multi-Family, and Commercial Uses	Cagan Crossings PUD
East	Urban Low	C-1, CP, & PUD	Mixture of Vacant Commercial Land, Single-Family, Multi-Family, and Developed Commercial Uses	Sunrise Lakes PUD Woodridge PUD Cagan Crossing PUD
West	Green Swamp Rural Conservation	A	Citrus Grove and Wetland	None

STAFF RECOMMENDATION: Staff recommends **DENIAL** of the request to amend Ordinance #2013-8, finding the proposed request for Mass Grading meets the criteria for mining which is inconsistent with the Comprehensive Plan and Land Development Regulations within the Green Swamp Area of Critical State Concern as stated in the Findings of Fact.

PLANNING and ZONING BOARD RECOMMENDATION:

- Summary of Analysis -

The Applicant is requesting to amend the Planned Unit Development (PUD) Zoning District (Ordinance #2013-8) to “mass grade” the site under a provision in Section 6.06.01.F, Land Development Regulations (LDR) that allows the removal of up to 200% of the material removed for minimum stormwater retention volume for sale off-site, or the removal of greater than 200% if necessary for development of the site given physical factors of the land or permitting requirements. The Applicant states a desire to develop the Mixed-Use PUD as a housing community for the elderly and disabled and that the removal of the material is necessary for the safety of the future residents. The Applicant argues the removal of the material is not mining. This argument is posed because mining is prohibited in the Green Swamp Ridge FLUC.

Taken in parts, the application proposes mass grading for the purposes of developing a housing community for the elderly and disabled; however, the applicant has failed to demonstrate that the mass grading is necessary, as more specifically detailed below:

Development for the Elderly and Disabled Issue

The Applicant is proposing a development for the elderly and disabled and argues the Mass Grading and severe elevation change is necessary to provide a fairly level community to meet this market’s needs. There are many examples in the Clermont area and even the adjacent communities where similar (or even steeper) grades exist that were permitted as Adult Communities and no severe grading was necessary for their use. These include, but are not limited to, Kings Ridge, Summit Greens and Greater Hills Subdivisions. Further, the Applicant has provided no studies or expert opinions that such a severe grading is beneficial to such a community.

Grading Issue

The LDRs state that “lot grading” is the “movement, extraction and/or placement of soils within the limits of an individual residential lot or parcel boundary.” (Section 9.07.14.A, LDR). The LDRs further state that

when performing lot grading, “[e]levation changes in topography shall not exceed a maximum of ten (10) feet except for the footprint of the structure.” (Section 9.07.14.A.3, LDR).

The Applicant proposes to excavate the material for transport and sale to another location. The proposed mass grading of this 131 acre property would result in an elevation change in excess of 36 feet and therefore violates the grading limitation provided in LDR Section 9.07.14.A.3 which limits elevation changes to a maximum of 10-feet.

Mining Issue

The Comprehensive Plan defines *Mining Activities* as:

The mining of minerals, ore or other naturally occurring materials from the earth by whatever method, including the removal of overburden for the purpose of extracting and removing from the site such underlying deposits and all associated clearing, grading, construction, processing, transportation and reclamation on the property, and includes the term pre-mining activities and lake creation but shall not be deemed to include activities associated with site surveying, environmental monitoring, mineral exploration or the sinking or operation of test wells and similar activities.

The Comprehensive Plan defines *Borrow Activities* as “Mining Activities with no onsite processing of excavated materials”

The Applicant has indicated a desire to remove enough material to reduce the elevation by roughly 36 feet, and to transport the material off-site, which clearly meets the definitions stated above. Mining of aggregate is specifically prohibited within the Green Swamp Area of Critical State Concern (ACSC). Although Sand Mining is permitted elsewhere in the Green Swamp ACSC, all mining is prohibited in the Green Swamp Ridge Future Land Use Category.

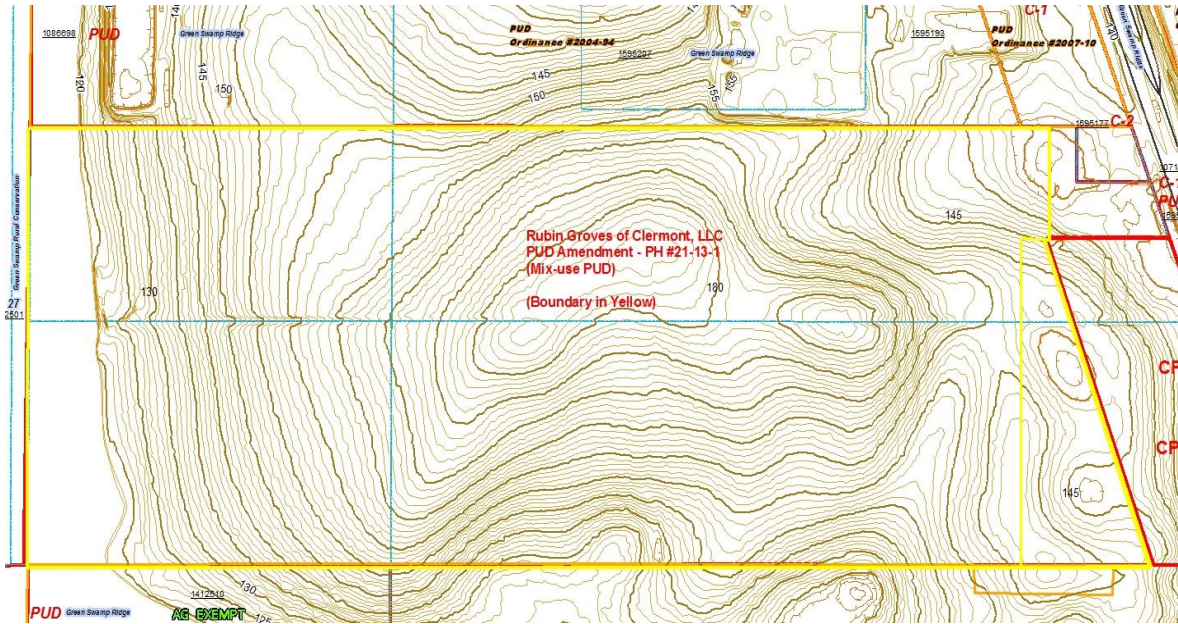
Specific development details regarding this project are discussed in Subsection “A” and “B” of this analysis.

- Standards of Review and Analysis - (Section 14.03.03, LDR)

A. Whether the proposed rezoning is in conflict with any applicable provisions of these Regulations;

Overburden Removal

The Applicant has indicated a desire to create a development community designed for the elderly and disabled. As demonstrated on the contour map below, there is a ridge through the center of the property with an elevation of approximately 180 feet above sea level near the center of the property to 130 feet at the west end and 140 feet at the east end. To accomplish this development, the Applicant proposes that “*mass grading*” of the site is necessary to reduce the elevation change so the topography of the development is near level with very little elevation change throughout the development.



The Applicant proposes the mass grading and removal of roughly 3.0 million cubic yards of material off site, and is requesting the proposed removal of the material be exempt from the requirements to obtain a mining conditional use permit and operating permit contained in LDR 6.06.00, under Subsection 6.06.01.F.2.a & b, which state the following:

- a. *Excess overburden generated as a result of the bona fide Construction may be removed offsite so long as the County Manager or designee is provided written notice during Construction approval or Building Permit application process and so long as the total amount of material removed offsite is not greater than two hundred (200) percent of the minimum stormwater retention/detention volume required.*
- b. *If the above criteria is exceeded or excavation is not storm water related, the County Manager or designee may give approval for removal of such excess Overburden if the applicant shows that removal of such excess Overburden is necessary for development of the Site due to physical factors of the Land or Permitting requirements from a governmental agency. In making this decision, the County Manager or designee shall consider the following factors:*
 - (1) *Unique physical characteristics and topography of the Land involved;*
 - (2) *Engineering and environmental factors requiring overburden removal;*
 - (3) *Whether excavation and removal of Overburden is necessary for access to the property;*
 - (4) *Permitting requirements of state, local and federal governmental agencies; or*
 - (5) *Such other matters that may be deemed appropriate by the County Manager or designee.*

The 200% of stormwater volume is estimated at approximately 500,000 cubic yards of dirt for the project. The estimated amount of overburden removal proposed under the mass grading is estimated at approximately 3,000,000 cubic yards of dirt (5 times the amount permitted under the exemption from mining stated above). For comparison purposes, the recently approved Professional Dirt Services Mine is roughly 10 acres and expects to remove 300,000-350,000 cubic yards of fill. The exemption provided for the removal of 200% of the overburden is limited for the

purposes of Stormwater Retention only.

The LDR defines a mine as follows: ***Mine.*** *An area of Land on which Mining Activities have been conducted, are being conducted or are planned to be conducted as consistent with Chapter 6.06.* The LDR defines mining activities as: ***Mining Activities.*** *The extraction of minerals, Ore or other naturally occurring materials from the earth by whatever method, including borrow pits and the Removal of Overburden for the purpose of extracting and removing from the Site such underlying deposits and all associated Clearing, grading, Construction, processing, transportation and Reclamation on the Mine property, and includes the term pre-mining activities and Lake Creation but Shall not be deemed to include activities associated with Site surveying, environmental monitoring, mineral exploration or the sinking or operation of test wells and similar activities.* Based on these definitions and the magnitude of the proposed excavation, the requested overburden removal clearly constitutes mining and is subject to the mining regulations contained in LDR Section 6.06.00 and the prohibition of mining within the Ridge Future Land Use Category.

Mass Grading

The Applicant is requesting to “mass grade” the site to remove 3.0 million cubic yards of material to reduce the elevation from approximately 183 feet to approximately 147 feet. This is an elevation change of as much as 36 feet over most of the property which is inconsistent with the grading regulations contained in LDR Section 9.07.14.A.3, which state, *“Elevation changes in topography shall not exceed a maximum of ten (10) feet except for the footprint of the structure”* and is contrary to the intent of the lot grading requirements, which are intended to prevent adverse effects to surrounding or downstream wetlands, floodplains or neighboring property, inhibit soil erosion, and preserve scenic vistas and hills. In addition, the LDR provision prohibiting dramatic changes in elevation as a result of lot grading coincides with Comprehensive Plan Policy I-7.4.4 *Protection of Rural Viewscapes*, requiring the County to protect rural viewscapes within the Green Swamp Area of Critical State Concern by protecting natural topography. This is discussed in detail within Section B of this report.

Green Swamp Principles for Guiding Development

The proposed mass grading and overburden removal raises several concerns related to inconsistencies with the Green Swamp Principles for Guiding Development contained in LDR Section 8.00.05.A.1-11, specifically items 1, 2, 7, and 10:

- *(1) Minimize the adverse impacts of Development on resources of the Floridian Aquifer, Wetlands and Stormwater-Detention areas;*
- *(2) Protect the normal quantity, quality and flow of ground water and Surface Water which are necessary for the protection of resources of state and regional concern; . . .*
- *(7) Protect or improve existing ground and Surface Water Quality; . . . [and]*
- *(10) Protect the Natural Flow Regime of Drainage Basins.*

The proposed removal of a greater portion of the sand dune ridge through the middle of the property poses substantial alterations to the normal flow and natural flow regime of the drainage basin and will inhibit the natural infiltration of recharge over a large area of the on-site upper surficial aquifer, a major recharge area within the GSACSC. This sand dune ridge provides natural infiltration and filtering of pollutants for the surficial and Floridan Aquifer. Approval to remove approximately 40 feet of these sands and soils will leave approximately 10 feet of overburden between the grade and water table, substantially reducing the filtration capability for groundwater within this area.

The existing zoning district (mixed use PUD) is permitted consistent with Table 3.00.03, Land Development Regulations (LDR), Land Use – Zoning District Matrix, and Policy I-4.2.2, Lake County Comprehensive Plan, which permits PUD zoning in the Green Swamp Ridge FLUC. The request to amend the PUD to be exempt from mining requirements and be permitted to mass grade the site and remove greater than 200% of the stormwater volume excess overburden from the site is inconsistent with the LDRs as previously stated.

B. Whether the proposed rezoning is consistent with all elements of the Lake County Comprehensive Plan (“the Plan”);

The 131.82 +/- acre property is located within the Green Swamp Ridge FLUC on the Future Land Use Map. Approximately 9.14 acres of wetlands exist on the subject property, resulting in 122.68 net buildable acres. Potential development within this FLUC must comply with the established development standards as outlined in *Policy I-4.2.2* of the Comprehensive Plan (Plan). These development standards address density, intensity, open space, impervious surface ratio (ISR), floor area ratio (FAR), building square footage, and building height.

An agriculture buffer 50-foot wide is required along the western property boundary pursuant to Comprehensive Plan Policy I-7.7.5. This is less than the 200 foot buffer required for mines adjacent to churches, schools, parks, hospitals, residentially zoned property and property used for public purposes, and the 100 foot buffer from all other property lines that is required for a mine. The proposed ordinance contains provisions for this buffer and language for the continuation of agriculture uses to coincide with development build-out.

Additionally, the proposed ordinance contains a condition for the expiration of the PUD rezoning after three (3) years of approval should the development fail to commence construction within that period pursuant to Comprehensive Plan Policy I-7.8.2. Included with these conditions are requirements for meeting all applicable mining submittal requirements with deadlines for submitting applications, commencement of site work, completion of the mass grading, and reclamation of the site. These conditions have been established to avoid potential adverse impacts, such as soil erosion, uncontrolled stormwater run-off, and the degradation of the natural viewscapes and vistas in the area should the mass grading of the site not be completed in a timely manner, if the mass grading request is approved.

Mass Grading / Overburden Removal

The proposed removal of 3.0 million cubic yards of material and reduction of the elevation by roughly 36 feet raises several concerns related to inconsistencies with the Green Swamp Principles for Guiding Development contained in Comprehensive Plan Policy I-4.1.4. The proposed removal of a greater portion of the sand dune ridge through the middle of the property poses substantial alterations to the normal flow and natural flow regime of the drainage basin and will inhibit the natural infiltration of recharge over a large area of the on-site upper surficial aquifer, a major recharge area within the GSACSC. This sand dune ridge provides natural infiltration and filtering of pollutants for the surficial and Floridan Aquifer. Approval to remove approximately 40 feet of these sands and soils will leave approximately 10 feet of overburden between the grade and water table, substantially reducing the filtration capability for groundwater within this area. As determined in Section “A” above, the magnitude of the overburden removal constitutes mining under the definitions contained in the LDR and is further supported by the definitions contained in the Comprehensive Plan. Mining is defined as, *“Mining, An area of Land on which Mining Activities have been conducted, are being conducted or are planned to be conducted.”* **“Mining Activities, The mining of minerals, ore or other naturally occurring materials from the earth by whatever method, including the removal of overburden for the purpose of extracting and removing from the**

site such underlying deposits and all associated clearing, grading, construction, processing, transportation and reclamation on the property, and includes the term pre-mining activities and lake creation but shall not be deemed to include activities associated with site surveying, environmental monitoring, mineral exploration or the sinking or operation of test wells and similar activities.” With the removal of 5 times the 200% stormwater volume the request is determined to meet these definitions and as such is recognized as mining, which is not a permitted or conditional use within the Green Swamp Ridge FLUC in accordance with Comprehensive Plan Policy I-4.2.2, thus being inconsistent with this policy.

In addition, Policy I-7.4.4 *Protection of Rural Viewscapes*, requires the County to protect forested areas, native vegetation, and natural topography within the Rural Future Land Use Series, Wekiva River Protection Area and Green Swamp Area of Critical State Concern in order to maintain and protect the integrity of natural vistas and scenic viewscapes. The County shall enforce such regulations to the extent feasible, recognizing the rights of bona fide agricultural activities established in statute. The mass grading of the site and removal of 3.0 million cubic yards of material is in direct conflict with the protection of natural topography within the Green Swamp Area of Critical State Concern.

C. Whether, and the extent to which, the proposed rezoning is inconsistent with existing and proposed land uses;

The request for overburden removal is inconsistent with the existing land uses of the surrounding area. The land uses within the immediate area consist of general and convenience retail, restaurants, auto repair facilities, together with single and multi-family residential uses ranging from seventeen (17) dwelling units (DU) to the net acre on the south side, six (6) DU to the gross acres on the east side, three (3) DU to the gross acre on the north side, and undeveloped on the west side (Green Swamp Rural Conservation FLUC/1 DU to 10 net acres). The proposed removal of 3.0 million cubic yards of material without the protections afforded to mines in other areas of the county so close to urban development will cause impacts. These impacts include but are not limited to dust, noise, vibration, truck traffic as well as aesthetic impacts unsuitable for an urbanized area. The minimum setbacks between mines and residential zoning districts are 200 feet. If the Board approves the Mass Grading of the site, the Mass Grading would be exempt from the 200-foot setback since this would be approved as intensive grading rather than as a mine, and the proposed use of the site would not be required to go back through the Public Hearing process for approval of a Mining Conditional Use Permit.

D. Whether there have been changed conditions that require a rezoning;

There have been six (6) rezoning cases in this area over the past 6-years related to PUDs. The Applicant seeks a determination by the Board that the removal of excess overburden (greater than 200% of the stormwater volume) is not mining but necessary to accommodate the Applicant's desire to move forward with the development as a Mixed-Use PUD community for the elderly and disabled. As indicated above, the request is a mining operation and therefore is inconsistent with the Comprehensive Plan and LDRs for the reasons cited.

E. Whether, and the extent to which, the proposed rezoning would result in demands on public facilities, and whether, or to the extent to which, the proposed rezoning would exceed the capacity of such public facilities, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities;

UTILITIES

Southlake Utilities has been identified as the probable utility service provider for the development central water and sewer. It will be necessary for the Applicant to obtain a Utility Service Agreement from Southlake Utilities and provide a copy of this agreement in conjunction with any development application approval. The ordinance requires connection to central utilities.

FIRE

Lake County Fire and Rescue Station (LCFR #112) is located at the intersection of CR 474 and US Hwy 27 area approximately 0.5 mile from the property. LCFR #112 is manned 24/7 with an approximate response time of 3 to 5 minutes providing fire protection and advanced life support for this area.

SOLID WASTE

The Lake County Solid Waste Division has indicated that adequate capacity is available to address the solid waste needs of the project. The ordinance has been conditioned to require sufficiently designed access ways to accommodate solid waste collection vehicles.

PARKS

The Applicant is providing 49.1 acres of common open space within the proposed development which may possibly be used for hiking trails, picnicking, and other passive recreational uses. Further evaluation of recreational needs will be considered during the development review process for a development application (site plan/preliminary plat/construction plans) submittal.

F. Whether, and the extent to which, the proposed rezoning would result in significant adverse impacts on the natural environment;

The overburden removal will significantly alter the natural drainage pattern and flow regime for a large portion of the property and has the potential to impact a high quality wetland area to the west, inconsistent with the guiding principles for development within the GSACSC.

As previously stated, Policy I-7.4.4 *Protection of Rural Viewscapes* requires the County to protect forested areas, native vegetation, and natural topography within the Rural Future Land Use Series, Wekiva River Protection Area and Green Swamp Area of Critical State Concern in order to maintain and protect the integrity of natural vistas and scenic viewscapes. The County shall enforce such regulations to the extent feasible, recognizing the rights of bona fide agricultural activities established in statute. The mass grading of the site and removal of 3.0 million cubic yards of material is in direct conflict with the protection of natural topography within the Green Swamp Area of Critical State Concern by almost leveling the site and removing any natural vistas.

The property is in an area that has the potential to contain sand skinks and gopher tortoises. A detailed Environmental Assessment, no older than 6-months and addressing flora, fauna, and natural habitat, will be required prior to any development application approval. The submittal of an Environmental Assessment will be a condition in the attached ordinance. Wetlands on the site will be required to be placed in a conservation easement and will be required to have a fifty (50)-foot wetland buffer. These requirements will be addressed in detail during the development review process if this rezoning is approved.

G. Whether, and the extent to which, the proposed rezoning would adversely affect the property values in the area;

No evidence has been presented that would indicate the proposed rezoning would adversely affect

the property values in the area.

H. Whether, and the extent to which, the proposed rezoning would result in an orderly and logical development pattern, specifically identifying any negative effects on such patterns;

The development pattern for the area surrounding the property is predominately commercial development along US Hwy 27. A mix of residential types (Single-Family and Multi-Family) together with assorted commercial uses (general and convenience retail, general and fast food restaurants, auto repair, and medical services) are situated west of the highway. The Comprehensive Plan has designated this area as the Green Swamp Ridge FLUC to promote a balanced mix of land uses. While the proposed actual use of the property (mixed-use development PUD community for the elderly and disabled) is consistent with the Green Swamp Ridge FLUC and would result in an orderly and logical development pattern, the proposed mass grading of the property in preparation for the development is inconsistent with the Green Swamp Ridge FLUC and would disrupt the orderly and logical development pattern, as it would be a mining use not designed in accordance with the limitations and requirements ordinarily placed on those uses by the LDR, which are intended to protect surrounding land uses from the mine's potential off-site impacts.

I. Whether the proposed rezoning would be in conflict with the public interest, and in harmony with the purpose and intent of these Regulations;

With the exception of the removal of 3.0 million cubic yards of fill from the property, the proposed rezoning is in harmony with the general intent of the Lake County Comprehensive Plan and Land Development Regulations.

J. Any other matters that may be deemed appropriate by the Lake County Planning and Zoning Board or the Board of County Commissioners, in review and consideration of the proposed rezoning.

The Department of Economic Opportunity (DEO) Area of Critical State Concern Division formerly known as The Department of Community Affairs (DCA) provided a letter dated October 31, 2013, and supplemental information in an e-mail dated December 20, 2013, indicating that it had serious concerns regarding the request to mass grade and remove the overburden from the site on the basis of the Stormwater exemption and that it was inconsistent with the Comprehensive Plan and LDRs. A copy of this letter and the e-mail are attached as backup data to this report.

FINDINGS OF FACT: Staff has reviewed the application for this rezoning request and found:

1. The amendment request related to the removal of excess overburden (greater than 200% of the stormwater volume) is inconsistent with Comprehensive Plan Policy I-4.1.4, by failing to minimize the adverse impacts of development on resources of the Floridian Aquifer, wetlands and stormwater-detention areas, failing to protect the normal quantity, quality and flow of ground and surface water, failing to protect or improve existing ground and surface water quality, and failing to protect the natural flow regime of the drainage basin.
2. The amendment request related to the removal of excess overburden (greater than 200% of the stormwater volume) is inconsistent with Comprehensive Plan Policy I-7.4.4 *Protection of Rural Viewscapes*, by failing to protect the natural topography within the Green Swamp Area of Critical State Concern.
3. Based on the definition of "Mining" and "Mining Activities" contained in the Comprehensive Plan, the amendment request related to the removal of excess overburden (greater than 200% of the stormwater volume) is determined to be mining and mining activity.

4. The amendment request related to the removal of excess overburden (greater than 200% of the stormwater volume) is inconsistent with Comprehensive Plan *Policy I-4.2.2, Green Swamp Ridge Future Land Use Category* as mining is not a permitted or conditional use within the Green Swamp Ridge Future Land Use Category.
5. The amendment request related to the removal of excess overburden (greater than 200% of the stormwater volume) is inconsistent with the Green Swamp Principles for Guiding Development contained in Land Development Regulations, Section 8.00.05.A.1-11, by failing to minimize the adverse impacts of development on resources of the Floridian Aquifer, wetlands and stormwater-detention areas, failing to protect the normal quantity, quality and flow of ground and surface water, failing to protect or improve existing ground and surface water quality, and failing to protect the natural flow regime of the drainage basin.
6. The amendment request related to the removal of excess overburden (greater than 200% of the stormwater volume) is inconsistent with the grading regulations contained in LDR Section 9.07.14.A.3, as the proposed elevation change of 36 feet exceeds the 10-foot limitation.
7. Based on the definition of “Mining” and “Mining Activities” contained in the Land Development Regulations, Chapter 2, the amendment request related to the removal of excess overburden (greater than 200% of the stormwater volume) is determined to be mining and mining activity.

Based on these findings of fact, staff recommends **Denial** for the amendment request related to the removal of excess overburden (greater than 200% of the stormwater volume).

WRITTEN COMMENTS FILED:

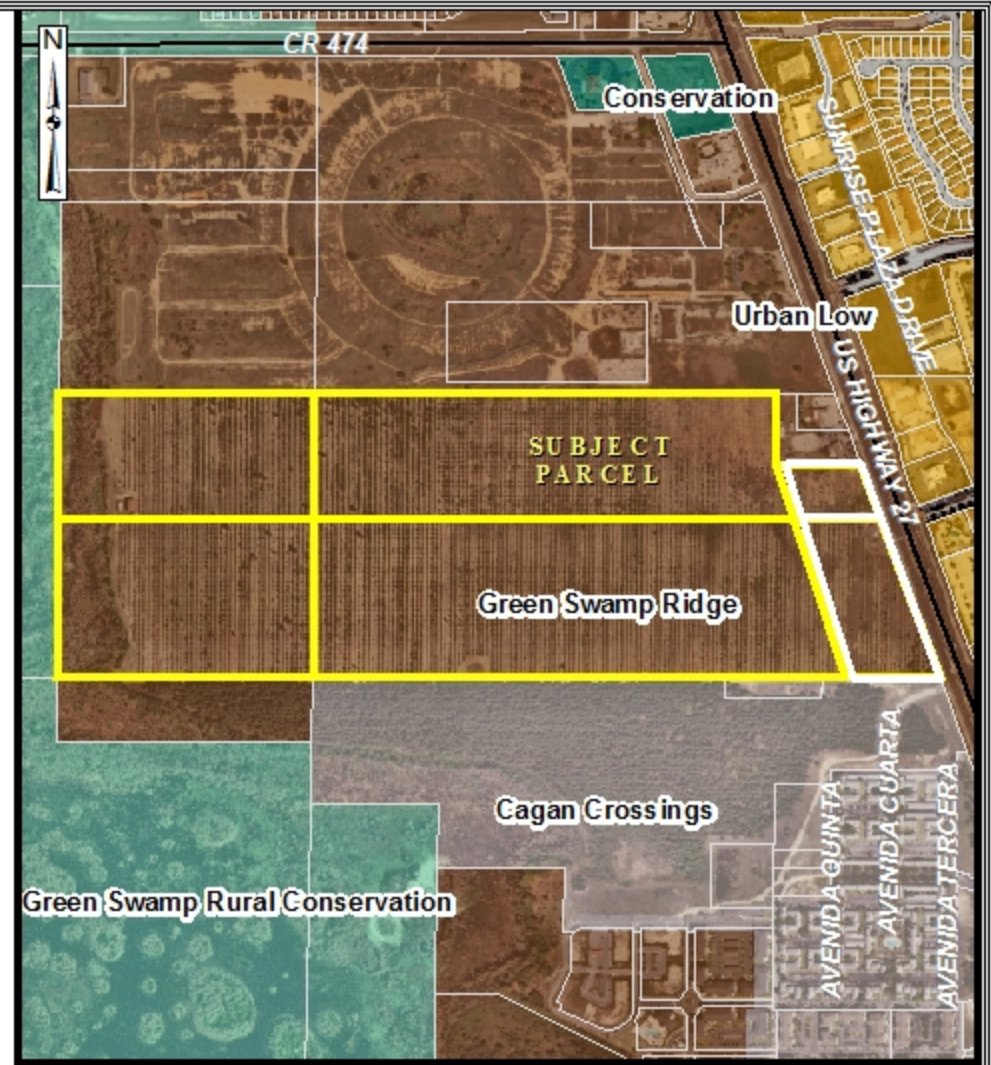
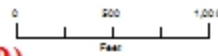
Support: -0-

Concern: -1-

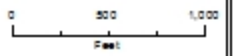
Opposition: -0-



CURRENT ZONING
PLANNED UNIT DEVELOPMENT (PUD)



CURRENT 2030 FUTURE LAND USE
GREEN SWAMP RIDGE



RUBIN GROVES PUD

CASE NO.
 PH #21-13-1

CASE LOCATION:
 26/27 - 24S - 26E

REQUESTING:
 Amend the PUD to allow excess overburden removal from site and not be recognized as mining.

ZONING (Red outline)

LAND USE (Pink outline)

SUBJECT PARCEL (Yellow outline)

DATASOURCES:
 Lake County GIS Department Planimetrics, 2009 aerial image, Data Compilation and Map production compliments of the Growth Management Department, Planning and Community Design.

MAP COMPOSITION:
 DECEMBER, 2013

This map product was prepared from a Geographic Information System established by the Lake County Board of County Commissioners, its employees, agents and personnel, make no warranty as to its accuracy and in particular its accuracy as to labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. The Lake County Board of County Commissioners, its employees, agents and personnel MAKE NO WARRANTY OF MERCHANTABILITY OR WARRANTY FOR FITNESS OF USE FOR A PARTICULAR PURPOSE EXPRESS OR IMPLIED WITH RESPECT TO THIS MAP PRODUCT. Independent verification of all data contained on this map product should be obtained by any user of the map.

FOCUS AREA

LAKE COUNTY
 FLORIDA

Department of Growth Management
Planning & Community Design



PH# 21-13-1

Rubin Groves PUD Amendment Rezoning

Amend PUD Ordinance #2013-8

(Post - 12/20/2013) - Picture taken from US Hwy 27 looking west at the property showing the advertisement posting for the Public Hearing.

**Department of Growth Management
Planning & Community Design**



PH# 21-13-1

Rubin Groves PUD Amendment Rezoning

Amend PUD Ordinance #2013-8

(Post - 12/20/2013) - Picture taken from US Hwy 27 looking west at the property.

**Department of Growth Management
Planning & Community Design**



PH# 21-13-1

Rubin Groves PUD Amendment Rezoning

Amend PUD Ordinance #2013-8

(Post - 12/20/2013) - Picture taken from US Hwy 27 looking west at the property showing the elevation change.

**Department of Growth Management
Planning & Community Design**



PH# 21-13-1

Rubin Groves PUD Amendment Rezoning

Amend PUD Ordinance #2013-8

(Post - 12/20/2013) - Picture taken from US Hwy 27 looking west at the property showing the elevation change of the property.

ORDINANCE #2014-XX
PH #21-13-1
Rubin Groves of Clermont, LLC / Sheldon Rubin
Rubin Groves of Clermont PUD

AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Sheldon Rubin (the "Applicant") on behalf of Rubin Groves of Clermont, LLC – Sheldon Rubin (the "Owners") has submitted an application to amend the Planned Unit Development (PUD) Zoning District (Ordinance #2013-8) on 131 +/- acres to allow a Mixed-Use Planned Unit Development of single-family residential uses, limited commercial uses, and to include mass grading and overburden removal exceeding 200% of the stormwater volume requirement; and

WHEREAS, the property consists of approximately 131 +/- acres located south of Clermont– west and southwest of the intersection of Woodcrest Way and US 27, Section 26 & 27 – Township 19 South – Range 26 East, also described as Alternate Key #1595240, 2510480 and the western portions of Alternate Key #s 1071011, & 1595169, and more particularly described below:

LEGAL DESCRIPTION:
(Exhibit "A" Attached)

WHEREAS, the subject property is located within the Green Swamp Ridge Future Land Use Category; and

WHEREAS, the Board of County Commissioners of Lake County, Florida, on the 26th day of February, 2013 approved a Mixed Use PUD under Ordinance #2013-8; and

WHEREAS, the adoption of this new ordinance shall supersede and replace Ordinance #2013-8; and

WHEREAS, the Lake County Planning and Zoning Board, did review petition PH #21-13-1, on the 7th day of January, 2014, after giving Notice of Hearing on petition for a change in the use of land, including a notice that said petition would be presented to the Board of County Commissioners of Lake County, Florida, on the 28th day of January, 2014; and

WHEREAS, the Board of County Commissioners reviewed said petition, the recommendations of the Lake County Planning and Zoning Board, and any comments, favorable or unfavorable, from the Public and surrounding property owners at a duly advertised Public Hearing, and

WHEREAS, upon review, certain terms pertaining to the development of the above described property have been duly approved, and

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above tract of land, as specified above, subject to the following terms:

Section 1. Terms:

The County Manager or designee shall amend the Zoning Map in accordance with this Ordinance. The uses of the property shall be limited to the uses specified in this Ordinance and generally consistent with the Conceptual Plan attached hereto as Exhibit "B". To the extent where there are conflicts between Exhibit "B" and this Ordinance, this Ordinance

1 shall take precedence. This Ordinance shall supersede and replace any and all previous
2 ordinances for this property, specifically Ordinance #2013-8.

3 A. Land Use and Design:

4 1. Residential:

5 Single-Family Residential at a density of up to four (4) dwelling units (du) to the net
6 acre (490 dwelling units, maximum).

7 2. Commercial:

8 a. Commercial development area shall not exceed twenty-four (24.54) acres
9 maximum and as limited by the maximum floor area ratio of 0.25.

10 b. Commercial uses shall be permitted in accordance with the Comprehensive
11 Plan and Land Development Regulations (LDR), as amended.

12 Accessory uses directly associated with the above principal uses may be
13 approved by the County Manager or designee. Any other use of the site not
14 specified in this Ordinance shall require approval of an amendment to this
15 Ordinance by the Board of County Commissioners.

16 B. Mass Grading and Overburden Removal:

17 1. The mass grading shall be consistent with Exhibit "C" – Mass Grading Conceptual
18 Plan and is subject to the Principles for Guiding Development and Development
19 Requirements within the Green Swamp Area of Critical State Concern contained in
20 the Comprehensive Plan and Land Development Regulations, as amended.

21 2. The mass grading plan shall be subject to the mining regulations contained in the
22 Land Development Regulations, as amended, and shall be submitted as
23 Construction Plans for Phase 1 of the development.

24 3. The mass grading plan shall meet all submittal requirements for a Mining
25 Conditional Use Permit and Operating Plan in accordance with the Land
26 Development Regulations, as amended, but will not be required to go through the
27 Mining Conditional Use Permit Public Hearing process.

28 B.C. Environmental, Open Space and Conservation:

29 1. An environmental assessment consistent with the Comprehensive Plan and LDR,
30 as amended shall be required with site plan, preliminary plat, and/or construction
31 plans.

32 2. The development is providing 49.1 acres of open space, which meets the
33 minimum required open space of 49.07 acres (40% of the net buildable area). The
34 development shall maintain the minimum open space on the site, consistent with
35 the Comprehensive Plan and LDR, as amended.

36 3. All wetlands within the property shall be placed into a conservation easement or
37 similar recorded and legally binding instrument, as allowed by law, pursuant to
38 Lake County Comprehensive Plan Policy I-4.1.5. The conservation easement or
39 similar instrument shall require that all wetlands and wetland buffers be maintained
40 in their natural and unaltered state.

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GD. Development Requirements:

Impervious Surface Ratio (ISR)	45% of the development site
Floor Area Ratio (FAR)	25% of the non-residential development site
Building Square Footage	5,000 SF; may increase to max. ISR & FAR if building meets or exceeds sustainable building rating & certification system and retains the first 3 inches of stormwater runoff on the property.
Building Height	Forty (40) Feet

All development shall meet the development requirements within the Green Swamp Area of Critical State Concern in accordance with the Comprehensive Plan and LDR, as amended.

DE. Utilities:

1. Central water and sewer shall be provided to the development prior to construction plan and/or site plan approval.
2. A copy of the Utility Service Agreement between the developer and utility service provider shall be provided to the County prior to the approval of a site plan and/or construction plans.
3. The Developer or Property Owner shall demonstrate that all accessways are designed to accommodate solid waste collection vehicles to Lake County standards, as amended.

EF. Parking: All parking for the development shall be consistent with the Comprehensive Plan and LDR, as amended.

FG. Buffers, Landscaping, and Setbacks:

1. Landscaping and screening shall be in accordance with the Comprehensive Plan and LDR, as amended.
2. Landscape buffers, fences or walls, shall not be required between commercial or mixed (residential/commercial) uses within this planned unit development except to visually screen parking, loading or storage areas.
3. Best Management Practices for native landscaping and “right plant-right place” landscaping techniques shall be used for the landscape design to minimize the use of chemicals, pesticides, and water for irrigation. Invasive and exotic plant species are prohibited.
4. A fifty (50) foot wide buffer shall be along the western perimeter property line, adjacent to agricultural land areas and any agriculture zoned properties. The buffer will be assessed during the review of the required preliminary plat and/or site plan and may consist of existing non-invasive vegetation or Florida Friendly vegetation.

GH. Transportation:

1. Access management shall be consistent with the Comprehensive Plan, LDR, and Florida Department of Transportation (FDOT) Regulations, as amended.
2. A full operational traffic impact analysis shall be submitted for review and approval

- 1 with a site plan and/or preliminary plat application.
- 2 H. Lighting: Exterior lighting shall not illuminate adjacent properties and rights-of-way.
- 3 Outdoor lighting shall be full-cutoff lighting. Lighting shall be designed so as to prevent
- 4 direct glare, light spillage, and hazardous interference consistent with Dark Sky
- 5 Principles and be in accordance with the Comprehensive Plan and Land Development
- 6 Regulations, as amended.
- 7 I. Noise: A noise assessment shall be required with the preliminary plat and/or site plan
- 8 submittal to demonstrate mitigation for any noise impacts the proposed project may
- 9 have on the neighboring uses pursuant to the LDR, as amended.
- 10 J. Signage: Signage shall be consistent with the Comprehensive Plan and LDR, as
- 11 amended.
- 12 K. Concurrency: The development shall be subject to all applicable Concurrency
- 13 Management requirements in accordance with the Comprehensive Plan and LDR, as
- 14 amended.
- 15 L. Future Amendments to Statutes, Code, Plan, and/or Regulations: The specific
- 16 references in this Ordinance to the Florida Statutes, Florida Administrative Code, Lake
- 17 County Comprehensive Plan, and Lake County Land Development Regulations,
- 18 include any future amendment to the Statutes, Code, Plan, and/or Regulations.
- 19 M. PUD Term Limits: Physical development shall commence within three (3) years
- 20 from the date of this Ordinance approval.
- 21 1. Failure to submit an application for a Mining Conditional Use Permit, a Mining
- 22 Operation Plan, Reclamation/Mass Grading Plan, and bonding or other security
- 23 necessary to enforce the conditions of approval in accordance with Section
- 24 6.06.00, LDR, as amended, shall constitute failure to commence physical
- 25 development and shall cause the revocation of this ordinance in accordance with
- 26 the Comprehensive Plan or superseding documents amended.
- 27 2. Failure to construct either infrastructure for 100 dwelling units, infrastructure for
- 28 5,000 square feet of commercial use, or the necessary extension of Woodcrest
- 29 Way to support the proposed development within three (3) years of approval of
- 30 this Ordinance, shall constitute failure to commence physical development and
- 31 shall cause the revocation of this ordinance in accordance with the
- 32 Comprehensive Plan or superseding documents amended. Clearing and grading
- 33 alone shall not be construed as sufficient to meet this requirement.
- 34 3. Prior to expiration of the three-year time frame, the Board of County
- 35 Commissioners may grant, via a Public Hearing, a one (1) extension of the time
- 36 frame for a maximum of two (2) years upon a showing that reasonable efforts have
- 37 been made towards securing the required approvals and commencement of work.
- 38 N. After establishment of the facilities as provided herein, the aforementioned property
- 39 shall only be used for the uses named in this Ordinance.
- 40 O. This Ordinance shall inure to the benefit of, and shall constitute a covenant running
- 41 with the land and the terms, conditions, and provisions hereof, and shall be binding
- 42 upon the present owner and any successor, and shall be subject to each and every
- 43 condition herein set out.

1 PQ. The transfer of ownership or lease of any or all of the property described in this
2 Ordinance shall include in the transfer or lease agreement, a provision that the
3 purchaser or lessee is made good and aware of the conditions pertaining to this
4 Ordinance, and agrees to be bound by these conditions. The purchaser or lessee may
5 request a change from the existing plans and conditions by following procedures
6 contained in the Lake County Land Development Regulations, as amended.

7 QR. Action by the Lake County Code Enforcement Special Master. The Lake County Code
8 Enforcement Special Master shall have the authority to enforce the terms and
9 conditions set forth in this ordinance and to recommend that the Ordinance be
10 revoked.

11 **Section 2. Development Review and Approval:** Prior to the issuance of any permits, the Owner
12 shall obtain development order approvals from Lake County. The applications for final
13 orders shall meet all submittal requirements and comply with all County codes and
14 ordinances, as amended.

15 **Section 3. Severability:** If any section, sentence, clause or phrase of this Ordinance is held to be
16 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in
17 no way affect the validity of the remaining portions of this Ordinance.

18 **Section 4. Filing with the Department of State.** The clerk shall be and is hereby directed forthwith to
19 send a copy of this Ordinance to the Secretary of State for the State of Florida in accordance with Section
20 125.66, Florida Statutes.

21 **Section 5. Effective Date.** This Ordinance shall become effective as provided by law.

22
23 ENACTED this _____ day of _____, 2013.

24
25 FILED with the Secretary of State _____, 2013.

26
27 EFFECTIVE _____, 2013.

28 BOARD OF COUNTY COMMISSIONERS
29 LAKE COUNTY, FLORIDA

30 _____
31 JIMMY CONNER, Chairman

32 ATTEST:

33 _____
34 NEIL KELLY, Clerk of the
35 Board of County Commissioners
36 Lake County, Florida

37 APPROVED AS TO FORM AND LEGALITY

38 _____
39 SANFORD A. MINKOFF, County Attorney

EXHIBIT "A" – LEGAL DESCRIPTION

Parcel No.1:

The North 661 feet of the South 1485 feet of the East 1/2 of the Southeast 1/4 of Section 27, Township 24 South, Range 26 East, Lake County, Florida.

Parcel No.2:

The North 661 feet of the South 1485 feet of Section 26, Township 24 South, Range 26 East, Lake County, Florida, lying West of the right of way of U.S. Highway No. 27.

LESS and EXCEPT the following described parcels:

From the Southwest corner of Section 26, Township 24 South, Range 26 East, Lake County, Florida, run South 89°41'50" East, along the South line of said Section 26, 3386.26 feet to a point on the centerline of U.S. Highway #27, run thence along said centerline, North 20°05'20" West, 1384.28 feet; run thence North 89°41'50" West, 119.49 feet to the Point of Beginning; said Point of Beginning being on the Westerly right-of-way line of U.S. Highway # 27; continue thence North 89°41'50" West, 269.69 feet; run thence North 00°18'10" East, 187.47 feet; run thence South 89°41'50" East, 200.0 feet to the aforesaid Westerly right-of-way line of U.S. Highway #27; run thence South 20°05'20" East, 200.0 feet to the Point of Beginning.

AND

From the Southwest corner of Section 26, Township 24 South, Range 26 East, Lake County, Florida, run South 89°41'50" East, along the South line of said Section 26, 3386.26 feet to a point on the centerline of U.S. Highway #27, run thence along the said centerline of U.S. Highway # 27, North 20°05'20" West 1384.28 feet; thence North 89°41'50" West 119.49 feet for a Point of Beginning, said Point of Beginning being on the Westerly right-of-way line of the aforesaid U.S. Highway #27; run thence along said Westerly right-of-way line South 20°05'20" East 200.0 feet; thence North 89°41'50" West 439.38 feet; thence North 00°18'10" East 374.93 feet; thence South 89°41'50" East 100.00 feet; thence South 00°18'10" West 187.47 feet; thence South 89°41'50" East 269.69 feet to the Point of Beginning.

Parcel No.3:

That part of the South 1/4 of the Southwest 1/4 of the Southeast 1/4 lying West of the right of way of U.S. Highway No. 27; The South 1/4 of the Southeast 1/4 of the Southwest 1/4; and the South 1/4 of the Southwest 1/4 of the Southwest 1/4; Section 26, Township 24 South, Range 26 East, Lake County, Florida;

The South 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 27, Township 24 South, Range 26 East, Lake County, Florida.

Parcel No. 4:

The North 494 feet of the South 824 feet of Section 26, Township 24 South, Range 26 East, Lake County, Florida, lying West of the right of way of U.S. Highway No. 27, and the North 494 feet of the South 824 feet of the Southeast 1/4 of the Southeast 1/4 of Section 27, Township 24 South, Range 26 East, Lake County, Florida.

ALSO LESS THE FOLLOWING DESCRIBED PARCEL (Racetrac)

LEGAL DESCRIPTION: (Racetrac Parcel)

A part of Section 28, Township 24 South, Range 26 East, Lake County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Section 26; thence along the South line of said Section 26, North 89°59'11" West, a distance of 2034.49 feet, to the westerly right-of-way line of

1 U.S. Highway 27 (State Road 25) per Florida Department of Transportation Right-of-Way Map
2 Section 11200, for a point of beginning. Thence continue along said South line, North 89°59'11"
3 West, a distance of 469.14 feet; thence leaving said South line. North 20°17'17" West. a
4 distance of 1184.20 feet; thence South 89° 53'15" East, a distance of 469.45 feet, to a point on
5 the westerly right-of-way line of said U.S. Highway 27; thence along said westerly right-of-way
6 line, South 20°17' 17" East, a distance of 1183.34 feet, to the point of beginning. Containing
7 11.95 acres, more or less.

8 **Subject to:**

9 Legal description: ingress/egress easement

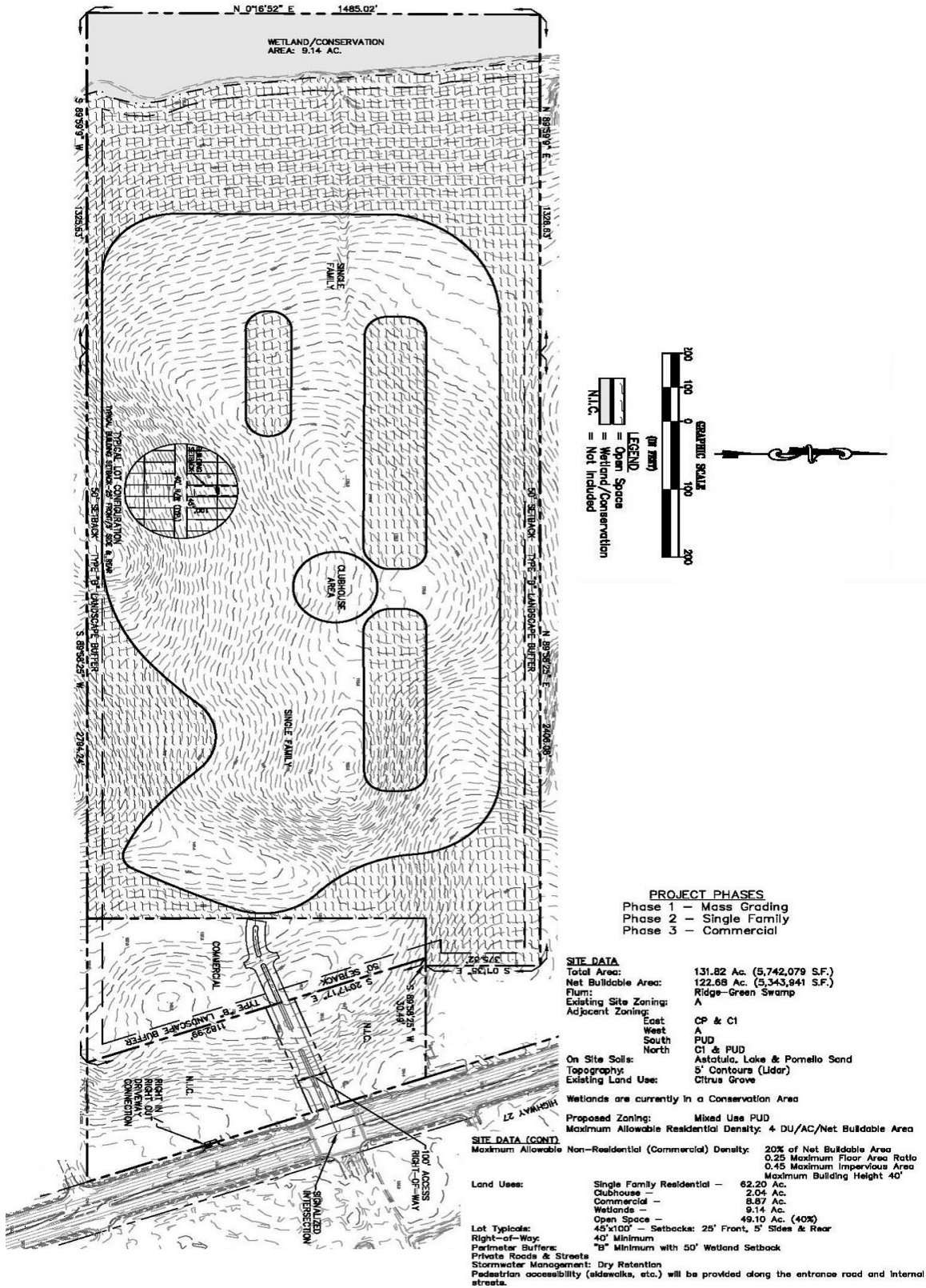
10 A part of Section 26, Township 24 South, Range 26 East, Lake County, Florida, being more
11 particularly described as follows:

12 Commence at the Southeast corner of said Section 26; thence along the South line of said
13 Section 26, North 89°59'11" West, a distance of 2503.63 feet; thence leaving said South line,
14 North 20°17'17" West, a distance of 635.57 feet, for a Point of Beginning; thence continue North
15 20°17'17" west, a distance of 75.00 feet; thence North 69°43'18" East, a distance of 440.00 feet,
16 to the westerly right-of-way line of U.S. Highway 27 (State Road 25) per Florida Department of
17 Transportation Right-of-Way Map Section 11200; thence along said westerly right-of-way line.
18 South 20°17'17" East, a distance of 75.00 feet: thence leaving said westerly right-of-way line,
19 South 69°43'18" West, a distance of 440.00 feet, to the Point of Beginning.
20 Containing 0.75 acres, more or less.

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EXHIBIT "B" – CONCEPT PLAN



PROJECT PHASES
 Phase 1 – Mass Grading
 Phase 2 – Single Family
 Phase 3 – Commercial

SITE DATA

Total Area:	131.82 Ac. (5,742,079 S.F.)
Net Buildable Area:	122.68 Ac. (5,343,941 S.F.)
Flum:	Ridge-Green Swamp
Existing Site Zoning:	A
Adjacent Zoning:	East CP & C1
	West A
	South PUD
	North C1 & PUD
On Site Soils:	Astoria, Lake & Pomello Sand
Topography:	5' Contours (Lidar)
Existing Land Use:	Citrus Grove

Wetlands are currently in a Conservation Area

Proposed Zoning: Mixed Use PUD
 Maximum Allowable Residential Density: 4 DU/AC/Net Buildable Area

SITE DATA (CONT.)

Maximum Allowable Non-Residential (Commercial) Density:	20% of Net Buildable Area
	0.25 Maximum Floor Area Ratio
	0.45 Maximum Impervious Area
	Maximum Building Height 40'

Land Uses:

Single Family Residential	–	62.20 Ac.
Clubhouse	–	2.04 Ac.
Commercial	–	8.87 Ac.
Wetlands	–	9.14 Ac.
Open Space	–	49.10 Ac. (40%)

Lot Typicals:
 45'x100' – Setbacks: 25' Front, 5' Sides & Rear

Right-of-Way:
 40' Minimum

Perimeter Buffers:
 "B" Minimum with 50' Wetland Setback

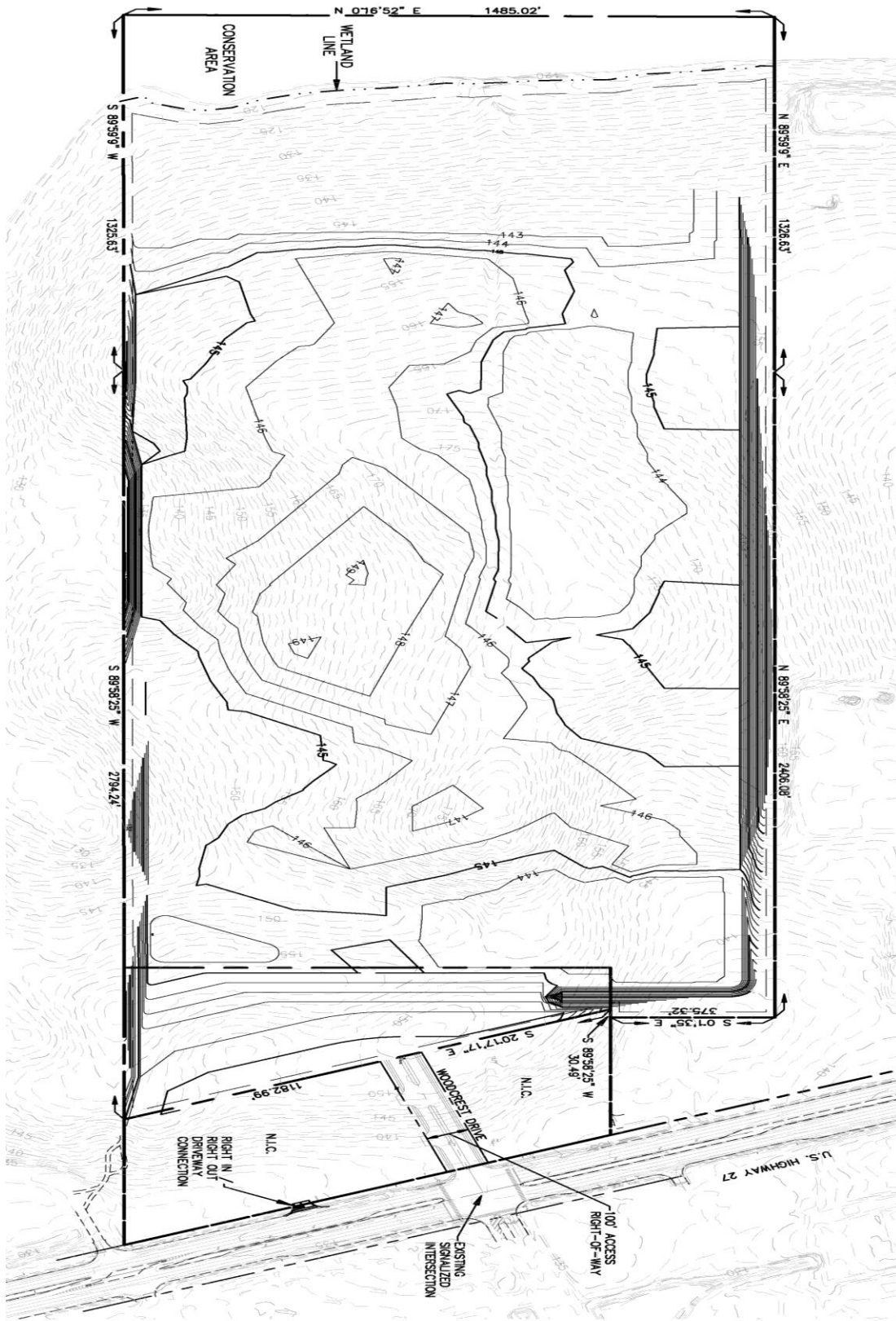
Private Roads & Streets
 Stormwater Management: Dry Retention

Pedestrian accessibility (sidewalks, etc.) will be provided along the entrance road and internal streets.

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EXHIBIT "C" – MASS GRADING CONCEPT PLAN



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Rick Scott
GOVERNOR



Jesse Panuccio
EXECUTIVE DIRECTOR

October 31, 2013

Ms. Amye King, AICP
Lake County Growth Management Director
315 West Main Street
Tavares, FL 32778

RE: Rubin Groves of Clermont (Project #20100600100/Application Request #2263)

Dear Ms. King:

The Department of Economic Opportunity (The Department) has received a Preliminary Plat Application for the Rubin Groves of Clermont proposed subdivision. According to the site plan, the parcel is approximately 143.8-acres and is proposed for 416 lots. Total commercial development is planned on 24.54-acres with a floor area ratio of .25 and an impervious surface ratio of .45. The proposed development is in the Ridge Future Land Use category within the Green Swamp Area of Critical State Concern (ACSC). The site is in an urbanizing area along US 27, just south of County Road 474.

After reviewing the preliminary plat application, the Department is concerned that the proposed "mass grading" on-site, reducing the elevation from as much as 183-feet to 147-feet, will inhibit natural groundwater infiltration decreasing pollutant removal and natural recharge functions of the Lake Wales Ridge portion of the Green Swamp ACSC, an important recharge area. The proposed mass grading is inconsistent with Section 9.07.14.A.3 of the Lake County Land Development Regulations (LDRs), which states, "[e]levation changes in topography shall not exceed a maximum of ten (10) feet except for the footprint of the structure."

The County's Land Development Regulations include a provision that excess overburden generated as a result of construction may be removed offsite so long as the total amount of material removed is not greater than two hundred (200) percent of the minimum stormwater retention/detention volume required. For the Rubin Groves site, 200 percent is equivalent to approximately 500,000 cubic yards. Approximately 3,000,000 cubic yards or 600% volume is being proposed. The mass grading will change the natural drainage pattern/ flow regime of a large extent of the property and in close proximity to high quality wetlands within the CORE CONSERVATION area of the Green Swamp ACSC. [Please See Attachment A]

Green Swamp Principles for Guiding Development:

The Department is concerned because the scale of the grading and removal of overburden proposed are inconsistent with the following Green Swamp Principles for Guiding Development:

- Minimize the adverse impacts of development of resources of the Floridan Aquifer, wetlands and flood-detention areas.
- Protect the normal quantity, quality and flow of ground water and surface water which are necessary for the protection of resources of state and regional concern.
- Protect or improve existing ground and surface water quality.
- Protect the natural flow regime of drainage basins.

The mass grading will substantially alter the “normal flow” and “natural flow regime” of the basin because it will inhibit natural infiltration into a substantial portion of the on-site upper surficial aquifer, an important recharge area within the Green Swamp ACSC. The proposal to remove a substantial portion of the relic sand dune has not been justified by analysis from an engineer or hydrogeologist relative to the Principles for Guiding Development. In particular, no analysis demonstrating how the removal of almost 40-feet of surficial sands and soils, leaving only approximately ten-feet of overburden between grade and the water table, would naturally provide for the infiltration and filtering of pollutants to minimize the impact of development on the surficial and Floridan Aquifer.

The Department requests that the County consider our remarks as you make your decision regarding the request to exceed the 200 percent overburden removal limitation. If you have any questions or comments, please do not hesitate to call Robin Branda at (850) 717-8495, or email him at Robin.Branda@deo.myflorida.com.

Sincerely,



Rebecca Jetton, Administrator
Areas of Critical State Concern

RJ/rsb

cc: Steve Greene

Attachment

ATTACHMENT A:

6.06.01 General Provisions.

F.

Exemptions. The following activities Shall not be subject to the Mining Conditional Use Permit and Operating Plan requirements set forth herein:

1.

Installation of utilities provided a valid underground utility Permit or Right-of-Way utilization Permit has been issued.

2.

Excavation in conjunction with bona fide commercial, industrial or Subdivision Construction provided a Construction approval or Building Permit has been obtained from the County and Excavation is completed and Construction initiated within a reasonable period of time from the date that Excavation is initiated. Said time period Shall be determined by the County based upon the type of Construction and Shall be indicated on the written exemption document. Excess Overburden generated as a result of the bona fide Construction may be Removed offsite only as follows:

a.

Excess overburden generated as a result of the bona fide Construction may be removed offsite so long as the County Manager or designee is provided written notice during Construction approval or Building Permit application process and so long as the total amount of material removed offsite is not greater than two hundred (200) percent of the minimum stormwater retention/detention volume required.

b.

If the above criteria is exceeded or excavation is not storm water related, the County Manager or designee may give approval for removal of such excess Overburden if the applicant shows that removal of such excess Overburden is necessary for development of the Site due to physical factors of the Land or Permitting requirements from a governmental agency. In making this decision, the County Manager or designee shall consider the following factors:

- (1) Unique physical characteristics and topography of the Land involved;
- (2) Engineering and environmental factors requiring overburden removal;
- (3) Whether excavation and removal of Overburden is necessary for access to the property;
- (4) Permitting requirements of state, local and federal governmental agencies; or
- (5) Such other matters that may be deemed appropriate by the County Manager or designee.

c.

If the County Manager or designee gives written approval of such Overburden removal, the County Manager or designee may attach such conditions, limitations and requirements to such approval as are necessary to effectuate the purposes of this exemption; to carry out the spirit and purpose of the Mining Regulations and the Lake County Comprehensive Plan; and to prevent or minimize adverse effects upon Natural Resources and other nearby properties, including but not limited to requiring;

- (1) A Mining Conditional Use Permit;
- (2) A Mining Operating Plan;
- (3) A Mining Reclamation Plan;
- (4) A Grading Plan;
- (5) Provision of bonds or other security necessary to enforce the conditions of the approval; and/or

(6)

Limitations on the development operation such as regulation of Ingress and Egress, operational hours, duration of the approval, and limitations in size and amount of removal.

Prop# 2010 06 0010 AR# 2346
RUBIN GROVES PUD AMENDMENT

Hartenstein, Rick

From: Jetton, Rebecca <Rebecca.Jetton@deo.myflorida.com>
Sent: Friday, December 20, 2013 11:16 AM
To: Hartenstein, Rick
Cc: Spiers, Sherry; Branda, Robin S
Subject: FW: Supplemental information regarding Rubin Groves

RECEIVED

DEC 20 2013

Planning & Community Design

Hello Rick,

Thank you for sending the Rubin Groves report. This message supplements the Department's letter dated October 31, 2013. As noted in that letter, the proposed development is located in the Ridge Land Use Category of the Green Swamp Area of Critical State Concern (ACSC). Under Future Land Use Element Policy I-4.2.1, the only uses allowed in the Green Swamp are those that are allowed in each Future Land Use Category. Sand mining (as stated) is allowed in each future land use category in the Green Swamp except the Green Swamp Ridge Future Land Use Category.

Further, mining is defined in the comprehensive plan as *The mining of minerals, ore or other naturally occurring materials from the earth by whatever method, including the removal of overburden for the purpose of extracting and removing from the site such underlying deposits and all associated clearing, grading, construction, processing, transportation and reclamation on the property, and includes the term pre-mining activities and lake creation but shall not be deemed to include activities associated with site surveying, environmental monitoring, mineral exploration or the sinking or operation of test wells and similar activities.*

Our understanding is that the applicant plans to mine sand for commercial purposes with the reclamation plan being preparation of the site for residential development. Therefore, at this point, it appears that any excavation, removal, and transport off-site of overburden in excess of the Lake County Code maximum of 200% constitutes mining. We also believe the planned activity is inconsistent with several Green Swamp Principles for Guiding Development as outlined in our earlier letter.

Thank you for the opportunity to comment further on this project.

Rebecca Jetton
Areas of Critical State Concern

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