

**STAFF REPORT**

Planning & Zoning Commission: February 13, 2006

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**APPLICANT:** David J. & Linda E. Gentry **FILE NUMBER:** CU-06-04

**PURPOSE:** Conditional Use Permit for Excavation

**GENERAL**

**LOCATION:** North side of Sweet Gum Road, approximately 3,500' west of Sunshine Grove Road

**LEGAL**

**DESCRIPTION:** Lot 22, Crowell Acre, as per plat thereof recorded in Plat Book 15, Pages 58 - 62, of the Public Records of Hernando County, Florida in Section 16, Township 22 South, Range 18 East

**FILE STATUS:** All requirements necessary to conduct the public hearing have been satisfied.

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 0

**STAFF FINDINGS:**

Surrounding Zoning

North: AG  
South: AG  
East: AG  
West: AG

Surrounding Land Uses

SF, tree farm  
MH  
MH  
MH

**SUMMARY OF REQUEST**

The petitioner requests a conditional use permit for excavation. The subject property is located on the north side of Sweet Gum Road, approximately 3,500' west of Sunshine Grove Road.

**FACTUAL INFORMATION**

1. The property is currently zoned AG.
2. The property comprises approximately 9.8 acres.
3. The site contains a mobile home. An excavation operation has been underway on the site.

4. The site does not contain majestic or specimen trees.
5. The subject property has access from Sweet Gum Road.
6. The subject property is located within a rural land use classification on the adopted Future Land Use Map.
7. The on-site soil type is Candler fine sand. Candler fine sand provides a habitat suitable for gopher tortoises. Since there is the potential for this listed species of special concern to be present, a Florida Fish and Wildlife Conservation Commission permit may be required prior to site alterations.
8. The property is located in a flood zone C.
9. The subject property does not contain any wetlands, WHPAs or SPAs according to County data resources.
10. The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site. Water and sewer lines are not available to the property.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by single family and mobile home residential homes, agricultural uses, and undeveloped parcels.
13. The petitioner has not requested any deviations from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner requests a conditional use permit for excavation for a period of one year. A conditional use permit for excavation will be valid for a maximum period of five (5) years. The narrative indicates the excavation process is approximately 95% completed. The excavation operation has been halted due to the lack of a conditional use permit as required per the LDRs. A conditional use permit may be renewed upon reapplication. If the request for the conditional use permit is approved, the petitioner will have to obtain an excavation permit from the Development Department prior to commencement of the excavation operations.

he narrative does not indicate the daily schedule of the proposed excavation activity, except to note the excavation is approximately 95% complete. The County's excavation regulations limit excavation activities to between the hours of 7 a.m. and 6 p.m. It is staff's opinion the established ordinance hours of operation would be appropriate.

The LDRs require a minimum 100' setback where adjacent to agricultural uses (the surrounding parcels are zoned AG) and a minimum 100' vegetated buffer. The plan shows no buffers or setbacks and shows grading occurring up to the north, east and west property lines. The grading on the perimeter of the property serves to prevent stormwater runoff from leaving the property. The narrative notes the presence of a natural indentation on the property. This feature is located in the southeastern corner of the property and also serves to prevent runoff from leaving the property. The Planning & Zoning Commission does not have the ability to grant a variance from the setback and buffer requirements. The Zoning Administrator notes that if the P&Z approves the CUP request, the petitioner will have to petition the BCC for a variance from the setbacks and buffer requirements.

The LDRs require the petitioner to submit a plan for the control of fugitive dust. The notes on the plan provided indicate the petitioner will control all fugitive dust by watering or other methods as required.

The LDRs require the petitioner to provide a reclamation plan. The narrative indicates the reclamation plan includes contouring or other suitable land-shaping techniques to enhance side slope stabilization and control erosion during reclamation so that adjoining properties are not affected. The narrative indicates slopes will not exceed 3:1, as required per the LDRs. A revegetation plan is indicated to provide 20% of the area under permit to be retained or reestablished with native vegetation that existed on the site prior to the excavation activity, as required per the LDRs. The distribution of the 20% vegetation on the site is indicated to be determined during the review of the reclamation plan. The narrative indicates the operator will plant grass on the berm and any remaining portion of the of the site. The seeding is indicated to commence as soon as the grading is completed.

The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site. An existing 12" water line is located on the east side of Sunshine Grove Road near the intersection with Star road approximately 5,300' south of the subject property. A sewer manhole is located at the intersection of Weeping Willow Street and Pine Cone Street approximately 6,300' south of the subject property. The applicant will have to connect to water and/or sewer if they meet the connection standards of the applicable ordinances at the time they apply for development permits.

The site has access from Sweet Gum Road, an unpaved limerock road. The County Engineer indicates the petitioner has been maintaining the roadway. If the request is approved, the Planning staff is of the opinion the petitioner should be required to continue to maintain Sweet Gum Road as required per the County Engineer.

The subject property is approximately 1,000 feet north of the Sun Road public supply well. The excavation will be considered a vulnerable feature under the Groundwater Protection Ordinance (GPO) due to its depth, the underlying soil conditions and proximity to a public supply well.

This designation creates a 500 Special Protection Area (SPA) buffer around the outer rim of the excavation. There are several land uses allowed within an AG zoning classification which are prohibited within a SPA.

The City of Brooksville has been notified of the request; no response has yet been received.

### **FINDINGS OF FACT**

The area is characterized by single family and mobile home residential homes, agricultural uses, and undeveloped parcels. Mobile homes are located on the parcels to the east, west and south. A single family home and a tree farm are located to the north.

The subject property is located within a rural land use classification on the adopted Future Land Use Map.

The excavation operation which has occurred on the property is essentially complete. Approval of the conditional use permit would ensure reclamation in accordance with the LDRs.

**The conditional use permit process is a land use determination and does not constitute a permit for either construction, or use of, the property, or a Certificate of Concurrence. Prior to use of, or construction on, the property, the petitioner must receive approval from the appropriate County department(s) for the proposed use.**

**The granting of this land use determination does not protect the owner from civil liability for recorded deed restrictions which may exceed any county land use ordinances. Homeowners associations or architectural review committees require submission of plans for review and approval. The applicant for this land use request should contact the local association or the Public Records for all restrictions applicable to this property.**

### **STAFF RECOMMENDATION:**

The Planning staff recommends the Planning and Zoning Commission approve the Conditional Use Permit for Excavation for a period of one year. Approval should be conditioned upon the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. The petitioner shall be required to reclaim and abate the vulnerable feature. Documentation from a professional engineer or geologist attesting to the reclamation and abatement shall be provided to the County.

3. The petitioner shall be required to continue to maintain Sweet Gum Road as required per the County Engineer.
4. The petitioner shall be required to obtain an excavation permit.
5. No excavation shall occur below the road on any transect running perpendicular to Sweetgum.

**P&Z ACTION:**

The P&Z voted 3-2 to approve a Conditional Use Permit for excavation on the parcel addressed for a period of one year with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. The petitioner shall be required to reclaim and abate the vulnerable feature. Documentation from a professional engineer or geologist attesting to the reclamation and abatement shall be provided to the County.
3. The petitioner shall be required to continue to maintain Sweet Gum Road during the excavation process as required per the County Engineer.
4. The petitioner shall be required to obtain an excavation permit.
5. No excavation shall occur below the road on any transect running perpendicular to Sweetgum.