



LAND DEVELOPMENT REGULATIONS

PRIORITY ISSUES

BCC WORKSHOP
May 21, 2013



Eight items within the Land Development Regulations have been called out to be addressed prior to the general Code revision and adoption.

Staff offers the following prioritization of these items.



PRIORITIZATION

1. Earthmoving Code amendments
2. Charlotte Harbor CRA comprehensive plan & Code amendments
3. Manasota and Sandpiper Key Overlay District Code amendments
4. Parkside CRA comprehensive plan & Code amendments
5. Sign Code amendments (South County)
6. Livability/Green Building Ordinance
7. Bridgeless Barrier Islands Code and Little Gasparilla Island Overlay
8. Babcock Ranch Code amendments



Earthmoving Code Policy Decisions



EARTHMOVING CODE Policy Decision

Exempt Earthmoving Operations

There is a concern that Exempt Operations would not be meeting the code's Standard requirements or submit a PARM without some County oversight.

Should there be an application process to provide the County information on what is proposed as an Exempt Earthmoving Operation:

- Earthmoving operations associated with the creation agriculture ponds less than 20% of the site or 10 acres, whichever is less

If Yes, then the suggestion is to move this exemption to the Standard Earthmoving Operation section of the proposed Code



EARTHMOVING CODE Policy Decision

Excavation Depths

There is a concern that depth limits are necessary and comments that they are not needed as long as confining layer is not breached.

- Option 1) Remove depth limits and simply apply the two feet above confining layer standard
- Option 2) Remove depth limits, keep 2 feet above confining layer, and require a Deep Lake Management Plan for all excavations deeper than 12 feet (Lee County requirement) or some other depth
- Option 3) Retain depth limits as they are

Soil Borings are already required for any excavation that will exceed 12 feet in depth – a later slide will explain staff recommended revisions to that section



EARTHMOVING CODE **Information for Policy Decision**

Size Limits of Excavations – Specifically for Stormwater Retention/Detention

Existing Code language

- Exempt stormwater retention/detention
 - 20% of site or 3 acres
- Group I
 - no size limit but two year permit limit
- Group II
 - no larger than 25% of site unless a waiver is approved by the Hearing Examiner



EARTHMOVING CODE **Information for Policy Decision**

Size Limits of Excavations – Specifically for Stormwater Retention/Detention

Two types of stormwater retention/detention excavations in proposed code

- Standard Earthmoving Operation
 - Size limit is 25% of the site if within an Impaired Water Body Area or 20% otherwise
- Development Minor Excavation
 - Size limit is 35% of the site



EARTHMOVING CODE Policy Decision

Stormwater Retention/Detention in General

- Option 1) Keep the proposed categories with proposed size limits or some revision to size limits
- Option 2) Make all stormwater earthmoving operations Standard Earthmoving permits with no size limit except as approved by the water management districts



EARTHMOVING CODE Policy Decision

If Option 1) For Development Minor Excavation Size Limit

- Option 1) Keep size limit at 35% of the site or as otherwise approved by a water management district permit
- Option 2) Increase maximum size limit



EARTHMOVING CODE Policy Decision

Size Limits of Excavations – Specifically for Commercial Excavations

- Option 1) Keep 100 acre size limit
- Option 2) Remove 100 acre size limit
- Option 3) Keep a size limit with an increase in the maximum size either by percent of earthmoving site size or a set size



EARTHMOVING CODE Policy Decision

Hours of Operation

- Option 1) Add prohibition against earthmoving operating during Federal holidays
- Option 2) Retain language, "If the earthmoving operation is located within two miles of a dwelling unit, the operation shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and between the hours of 7:00 a.m. and 12:00 p.m. on Saturday." with addition of, "**unless otherwise approved by the Hearing Examiner**"
- Option 3) Remove or retain proposed requirement to get approval of adjacent residents for increased hours of operation.



EARTHMOVING CODE Policy Decision

Environmental Impact Statement (EIS) Requirement for Operations other than Specific Major

Concerns that the cumulative size of Standard and Specific Minor Earthmoving Operations can be very large, in the hundreds of acres

- Option 1) Do not require an EIS for anything other than a Specific Major Excavation
- Option 2) Require an EIS for Standard Earthmoving and Specific Minor Operations



EARTHMOVING CODE Policy Decision

Length of Permit for a Commercial Excavation

Concerns that up-to-50 years is much too long

- Option 1) Leave proposed language of "up to 50 years"
- Option 2) Leave at existing Code limit of 10 years
- Option 3) Change to a length of time somewhere between 10 and 50 years



EARTHMOVING CODE Policy Decision

Haul Routes

There is a question as to fairness of defined area

- Option 1) Retain proposed language terminating haul route(s) at nearest state-maintained road
- Option 2) Redefine as a set diameter or distance from the site



EARTHMOVING CODE Policy Decision

Fees – Groundwater Analysis Review

- Option 1) Leave cap at \$20,000
- Option 2) Leave cap at \$20,000, add in requirement that it apply per review (if new information is given staff then a new review must take place – who will pay?)
- Option 3) Remove cap entirely



EARTHMOVING CODE Policy Decision

Fees - Performance Assurance for Road Maintenance

Option 1) Keep as is – this recovers anticipated costs

Option 2) Change

- For operations where there is a 10% of total CY or 15,000 CY cap, whichever is greater, on material removed from site the bond amount will be \$20,000
- For all other operations where the amount depends on the size of the excavation, the bond amount will be \$1 per 16 cubic yards being removed from the site – if repairs exceed bond amount then the operator/property owners gets assessed extra amount



EARTHMOVING CODE Existing Permitted Excavations

- Extension of existing Commercial Mine permits – not allowed per Comp Plan
 - Must come in for comp plan amendment to Mineral Resource Extraction
 - Must rezone to Excavation and Mining
- Will need to meet the standards of the new Code
- May allow the ability to extend permit if the operation meets standards of the Code without requirement to go to the Hearing Examiner.
 - Would remove requirement for new earthmoving application to be submitted. Staff would review prior application.



Staff Recommended Revisions Based on comments received from the Public



EARTHMOVING CODE Staff Proposed Revisions

General Earthmoving Operation Standards.

2. An earthmoving operation shall not ~~have an adverse impact~~ degrade the quality or quantity of groundwater or surface water of surrounding ~~or downstream~~ properties as may be evidenced by a water management district or DEP permit.



EARTHMOVING CODE Staff Proposed Revisions

General Earthmoving Operation Standards.

3. An earthmoving operation shall not impede or destroy historic flowways. All historic flowways on the earthmoving operation site shall be protected and, ~~if necessary, enhanced~~ maintained.



EARTHMOVING CODE Staff Proposed Revisions

General Earthmoving Operation Standards.

6. An earthmoving operation shall not have an **adverse impact** on environmentally sensitive habitat or any listed species either on-site or off-site.
 - Define “**adverse impact**”
 - Destruction of the habitat
 - Reduced viability of the habitat for foraging or nesting
 - Death of the listed species
 - Loss of foraging habitat



EARTHMOVING CODE Staff Proposed Revisions

General Earthmoving Operation Standards.

More specificity requested by citizens

- Rewrite would be similar to the below revision:

7. An earthmoving operation shall protect wetlands and other surface waterbodies.
 - 2) Any off-site wetlands or waterbodies.
 - b. No activity other than the removal of exotic invasive species shall take place within this setback. ~~Depending on the duration and intensity of the activity, Specific Major Excavations are required to plantings of native vegetation may within be required within~~ 25% of total area of the buffer.



EARTHMOVING CODE Staff Proposed Revisions

General Earthmoving Operation Standards.

More specificity requested by citizens

- Rewrite would be similar to the below revision:

13. An earthmoving operation site shall be safely secured against trespass. ~~Depending on the duration of the activity, the intensity of the activity and adjacent uses, If the activity is within a mile of residential or institutional structures,~~ a fence or other similar means of securing the site ~~may be is~~ required.
14. ~~Depending on the duration of the activity, the intensity of the activity and adjacent uses, an earthmoving operation site may~~ If the operation is within 200 feet of a residential or institutional structure, it shall be required to be aesthetically enhanced with landscaped screening buffers or landscaped earthen berms.



EARTHMOVING CODE Staff Proposed Revisions

Excavation Specific Operation Standards

7. The permit holder shall provide traffic safety improvements such as signing, striping, barrier rails, turn and/or acceleration lanes with tapers, all meeting American Association of State Highway and Transportation Officials' Standards and which shall comply with the Manual of Uniform Traffic Control Devices, as ~~required by the County Engineer~~ identified in a Traffic Impact Analysis.



EARTHMOVING CODE Staff Proposed Revisions

Excavation Specific Operation Standards

- a. To the greatest extent possible, internal haul routes shall not be located within 250 feet of the adjacent lot boundary of the site, except at the lot exit and entry point, if the adjacent lot contains a residential or institutional structure.
- ~~c. The use of haul routes shall not have undue impact on persons and properties along or in proximity to a haul route.~~
- d. ~~Approval for use of a privately maintained right-of-way must be gained from each party responsible for maintenance of that right-of-way in order for the operation to use it as a haul route.~~ Demonstrate that the operation has valid access to the earthmoving site



EARTHMOVING CODE Staff Proposed Revisions

Standard Earthmoving Permits

1. Earthmoving activities for projects receiving Final Site Plan approval that do not meet the thresholds of an activity requiring a Specific Earthmoving Permit. This includes, but is not limited to, earthmoving activities that occur prior to approval of a building permit or final plat.
 - a. Retention and detention stormwater ponds shall meet the following material removal and design requirements:
 - 1) A maximum of 10 percent of the total cubic yards to be excavated or 15,000 cubic yards, whichever is greater, of material may be removed from the site. If material is to be removed, a PARM is required.

Make this same correction to other applicable sections of the proposed code



EARTHMOVING CODE Staff Proposed Revisions

Minor Excavation for Reconfiguration of a Lake (Lake Minor Excavation).

More specificity requested by citizens

- Staff revision would place anything deeper than 25 feet or 20 acres into a Specific Major Earthmoving Operation
- Rewrite would be similar to the below revision:

“These excavations are for changing the configuration of an existing lake, increasing the size, or increasing the depth more than would occur with a maintenance dredge. The Administrator will ~~may~~ require this item to undergo review as a Specific Major Earthmoving operation if ~~the Administrator determines that the impacts of the operation could impact the health, safety or welfare of the public or the environment~~ the lake is or becomes greater than 20 acres or greater than 25 feet deep due to the reconfiguration.”



EARTHMOVING CODE Staff Proposed Revisions

Major Excavation for Commercial Purposes (Commercial Excavation).

- c. The following specific design requirements shall be adhered to:
- 1) The excavation footprint shall not exceed 100 acres.
 - 2) There shall be a minimum setback of 250 feet from top of bank to any lot line not abutting residential zoning, 1,000 feet to any lot line abutting residential zoning, and 1,000 feet to any habitable dwelling unit or institutional structure unless the occupants and owners, if not the same, of the affected structures consent to a reduced setback.



EARTHMOVING CODE Staff Proposed Revisions

Application Requirements – Soil Borings

- a. **Soil borings must extend to either the bottom of the confining zone of the proposed mine aquifer or ten feet deeper than the proposed depth of the mine cell or area**, whichever is greater. A minimum of one boring must be taken within the footprint of each proposed mine cell or area within the boundary of the mine project. Additional borings must occur at every one-foot of elevation change within each mine cell or area. Locations of the test borings based upon site specific conditions. The depth of borings must exceed a minimum of ten feet beyond the proposed total depth of excavation. If wetlands are existing on-site a minimum of two borings per wetland are required, with one located at the edge of the wetland and the second a distance of 25 feet away;
- b. **Nature and depth of overburden;**
- c. **Likely yield of extractive material;**



EARTHMOVING CODE Staff Proposed Revisions

Application Requirements – Soil Borings (continued)

- d. **Complete chemical characteristics of water in each water-bearing strata to be penetrated;**
- e. **Groundwater levels;** and
- f. **A map contouring the first confining layer below the depth of excavation and thickness of the layer within the project site.**
Thickness and contouring of all intermediate confining layers between the land surface and depth of excavation must be depicted.

After evaluation by the ~~Division of Natural Resources~~, **the test borings must be plugged from bottom to top with cement** as required by the ~~Lee County well code (Ord. 06-09)~~.



EARTHMOVING CODE Staff Proposed Revisions

Specific Earthmoving Permit Application Requirements

C. Excavation Plans.

1. Excavation plans shall include the following information:
 - d. Within the site and within one-half mile of the site identify right-of-ways, easements, and lot ownership; natural physical features such as flowways, 100-year floodplain, wetlands, lakes and ~~critical wildlife listed species~~ habitat; manmade features such as utility lines, wells, septic systems, storage tanks, drainage ditches, houses, and barns. Provide the distance from the site and the excavation footprint to these features.



EARTHMOVING CODE Staff Proposed Revisions

Specific Earthmoving Permit Application Requirements

- 6) In no case shall there be a separation of greater than 50 feet between trees, unless clustering of vegetation is allowed.
- 7) Other indigenous species may be approved by the County for use in the landscaped area.
- 8) Clustering of vegetation ~~may be allowed on a case-by-case basis~~ allowed however this does not remove the obligation of placing landscaping around the entire perimeter of the excavation footprint.



EARTHMOVING CODE Staff Proposed Revisions

Specific Earthmoving Permit Application Requirements

2. The EIS shall include an analysis of the following:
 - a. Integrated hydrologic modeling of surface water and groundwater resources, during natural, operating, and post-construction conditions in normal, wet, and drought scenarios, particularly:
 - 1) Stacking of water (including sheet flow) up gradient of the operation site, with particular attention paid to the effects of berms, ditches, or other water control structures.
 - 2) Potential loss of sheet flow or other surface flows down gradient of the operation site.
 - 3) Potential reductions in flows to creeks, streams, rivers, or other natural surface waters.
 - 4) ~~The quality of any off-site surface water discharges which may occur under any conditions up to and including a 100-year storm event.~~



EARTHMOVING CODE Staff Proposed Revisions

Specific Earthmoving Process and Procedures

- e. When the Administrator determines that the information from the applicant is sufficient and all Staff reviews have been finalized, the Administrator will set a public hearing before the Hearing Examiner and finalize a Master Report, which shall include findings related to consistency with the Comprehensive Plan, this Article, and the Code of Laws and Ordinances of Charlotte County, a recommendation of approval or denial, and any special conditions to be placed on the operation in the event of an approval. The Master Report shall be sent to the applicant no less than 14 days prior to the hearing date. If the Administrator's recommendation is denial, the applicant may request the Administrator continue the hearing in order for the applicant to provide further information to the Administrator that may change the recommendation to approval.



EARTHMOVING CODE Staff Proposed Revisions

Specific Earthmoving Permit Variances

- C. As a condition to any requested Earthmoving Variance, the applicant must establish the following prerequisites to the satisfaction of the Administrator or Hearing Examiner before granting of the Variance:
2. Strict adherence to the provisions of the standards would place an undue burden or hardship upon the operation due to unique conditions of the site and that hardship was not caused intentionally by an action of the applicant. The natural conditions of the lot do not count as an undue hardship.



EARTHMOVING CODE Staff Proposed Revisions

Earthmoving Permit Violations

B. It is unlawful for any person to violate or fail to comply with the provisions of this Article, any provisions adopted by reference herein, and of a permit issued pursuant to this Article. If at any time during the term of a permit, the Administrator finds that the provisions of an Earthmoving Permit, this Article, or other applicable law have been violated, the Administrator may issue a stop work order and, if necessary, initiate a violation of the provisions of this Article before the Code Enforcement Board. The stop work order shall remain in effect until the activity is brought into compliance with the permit or unless the Stop Work Order is rescinded by the Administrator.



EARTHMOVING CODE Staff Proposed Revisions

Earthmoving Permit Violations

~~**C.** The validity of a permit shall terminate if there is evidence that the permit is being used for or the land is being prepared for a use other than what was stated in the application. Such evidence may include submittal of an application for a building permit, a special exception, a rezone, a site plan, or similar item.~~



CHARLOTTE HARBOR CRA PLAN AND CODE

ISSUES

- Prepare Revitalization Plan to allow use of RAPID density within the CRA
 - Revise Coastal High Hazard Areas and Evacuation Routes map (FLUM Series Map #14) based upon the new hurricane storm surge map
 - Revise 2050 Framework map (FLUM Series Map #2) to identify the CRA as a Revitalizing Neighborhood
 - Create policies for allocation of RAPID density



CHARLOTTE HARBOR CRA PLAN AND CODE

SCHEDULE OF ACTION

- Revitalization Plan
 - Developed by Staff
 - Based on adopted Redevelopment Plan
 - With proper public input, three months to prepare from time of commencement



CHARLOTTE HARBOR CRA PLAN AND CODE

SCHEDULE OF ACTION

- Code Amendments
 - Developed by Staff
 - Will implement the Revitalization Plan and other Plan Amendments, as required
 - Creation Charlotte Harbor Riverwalk Zoning district
 - Rezoning of appropriate lots (25 units/acres)
- Total process time from completion of final drafts, including all public hearings, transmittal to State, and State review, six to seven months



JUNE BCC WORKSHOP

- Manasota and Sandpiper Key Overlay District Code amendments



PARKSIDE CRA PLAN AND OVERLAY CODE

ISSUES

- Finalize Revitalization Plan
 - First draft is complete
- Prepare Land Development Regulations for the Commercial Core
 - Enhance residential development and redevelopment standards
 - Enhance landscaping and buffering standards
 - Allow mixed-use development
 - Allow low-intensity commercial development at the intersection of Harbor Blvd & Midway Blvd
 - Facilitate additional density



PARKSIDE CRA PLAN AND OVERLAY CODE

SCHEDULE OF ACTION

- Total process time from completion of final drafts, including all public hearings, transmittal to State, and State review, six to seven months



LIVABILITY/GREEN BUILDING ORDINANCE

- The main purpose of the Livability/Green Building Program is to educate builders, property owners and residents, about the benefits of green technologies and resources conservation, and to encourage livability practices. This is primarily done by education and outreach.
- After review, staff feels that these changes meet the intent and goals of the program while helping to encourage a more livable community, and without placing onerous burden on the program participants or the County.



LIVABILITY/GREEN BUILDING ORDINANCE

SCHEDULE OF ACTION

- Present to Board of County Commissioners at June 18 land use meeting



LIVABILITY/GREEN BUILDING ORDINANCE

CHANGES

- Change the name of the program to Livability/Green Building program: Reflects more accurately the intent, as it is not only to target Green Building, but to educate citizens on how to enhance their quality of life while preserving resources.
- Amend the Ordinance: Change the program requirements for County owned/constructed projects from mandatory to voluntary to avoid certification cost when excessive. However, State Statutes still require that new County owned/constructed buildings shall be constructed to comply with a Green Building rating system.



LIVABILITY/GREEN BUILDING ORDINANCE

CHANGES

- Eliminate conflicting incentives and leave the possibility for future ones: The offering of reduction of parking spaces and increase of floor area ratio were discouraging factors because of the high penalties associated with them. Elimination of them will simplify the process. Provisions for future incentives when feasible, gives flexibility.



BBI CODE/LGI OVERLAY CODE

SCHEDULE OF ACTION

- Presented to Planning & Zoning Board at May 13 meeting
- Present to Board of County Commissioners at June 18 and July 23 land use meetings



QUESTIONS?