



APPLICATION FOR PUBLIC HEARING FOR MINING EXCAVATION PLANNED DEVELOPMENT UNINCORPORATED AREAS ONLY

Applicant's Name: _____

Project Name: _____

STRAP Number(s): _____

NOTE: There is no supplement required with this Public Hearing for Mining Excavation Planned Development application.

Prior to submittal of a Mining Excavation Planned Development application, there is a Mandatory Preapplication Meeting. Please provide the Pre-Application Case Number [12-108(c)]:

PRE _____

Is this project located in one of the following planning communities: Caloosahatchee Shores, Estero, Page Park or Palm Beach Boulevard?

YES* NO *If YES, please note PART 4.C below for public information meeting summary document requirements.

STAFF USE ONLY

Case Number: _____ Commission District: _____

Current Zoning: _____ Fee Amount: _____

Land Use Classification: _____ Intake by: _____

Planning Community: _____

**LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (239) 533-8585**

**PART 1
APPLICANT\AGENT INFORMATION**

A. Name of applicant: _____
Address: Street : _____
City, State, Zip: _____
Phone Number: _____ Fax: _____
E-mail address: _____

B. Relationship of Applicant to owner (check one):

_____ Applicant (including an individual or husband & wife) is the sole owner of the property.

Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.1.
(See Part 1 Exhibit Form A1 attached hereto for suggested Affidavit Form for an individual.) [12-110(a)(4); 34-202(b)(1)c.]

_____ Applicant has been authorized by the owner(s) to represent them for this action.

Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.1.
(Please select the appropriate Affidavit Form from the suggested forms in Part 1 Exhibits attached hereto.) [12-110(a)(4); 34-202(b)(1)c.]

_____ Applicant is a contract purchaser/vendee.

Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.1.
(Please select the appropriate Affidavit Form from the suggested forms in Part 1 Exhibits attached hereto.) [12-110(a)(4); 34-202(b)(1)d.]

C. Authorized Agent: Name of the person who is to receive all County-initiated correspondence regarding this application. [34-202(b)(1)c.]

C.1. Company Name: _____
Contact Person: _____
Address: Street : _____
City, State, Zip: _____
Phone Number: _____ Fax: _____
E-mail address: _____

C.2. _____ **Additional Agent(s): The names of other agents that the County may contact concerning this application are attached as Exhibit PH-1.C.2. [34-202(b)(1)c.]**

**PART 2
PROPERTY OWNERSHIP**

A. Property Ownership: Single owner (individual or husband & wife only) [34-201(a)(1)a.1.]

A.1. Name: _____
Mailing Address: Street: _____
City, State, Zip: _____
Phone Number: _____ Fax: _____
E-mail: _____

B. Property Ownership: Multiple owners (Corporation, partnership, trust, association) [34-201(a)(1)].

B.1. _____ Disclosure of (Ownership) Interest Form is attached as Exhibit PH-2.B.1. [34-201(b)2]

C. Multiple parcels:

C.1. _____ Property owners list is attached as Exhibit PH-2.C.1. [34-202(a)(5)]

C.2. _____ Property owners map is attached as Exhibit PH-2.C.2. [34-202(a)(5)]

D. Date property was acquired by present owner(s): _____

D.1. _____ Copy of the recorded documents establishing title ownership attached as Exhibit PH-2.D.1.

**PART 3
PROPERTY INFORMATION**

A. STRAP Number(s): _____

B. Street Address of Property: _____

B.1. _____ Area location map is attached as Exhibit PH-3.B.1. [34-373(a)(4)b.]

C. Legal Description:

_____ **Legal description (on 8 1/2" by 11" paper) is attached as Exhibit PH-3.C.1. [12-110(a)(1); 34-202(a)(1)]**

_____ **Sealed sketch of the legal description is attached as Exhibit PH-3.C.2. [12-110(a)(3); 34-202(a)(1)]**

D. Boundary Survey:

_____ **A Boundary survey, tied to the state plane coordinate system, is attached as Exhibit PH-3.D.1. [12-110(a)(2); 34-202(a)(2)]**

_____ **Title certification. If deed restrictions encumber the property, a copy of the recorded restrictions must accompany the title certification. Attach as Exhibit PH-3.D.3. [12-110(a)(3); 10-154(2)]**

E. General Location of Property:

E.1. _____ Aerial Photograph **Exhibit PH-3.E.1.** [12-110(a)(6); 10-154(9)]

E.2. **Directions to property:**

F. Surrounding property owners:

F.1. _____ List of surrounding property owners is attached as **Exhibit PH-3.F.1.** [12-110(a)(5); 34-202(a)(6)]

F.2. _____ Map of surrounding property owners is attached as **Exhibit PH-3.F.2.** 12-110(a)(5); [34-202(a)(7)]

F.3. _____ 2 sets of mailing labels are attached as **Exhibit PH-3.F.3.** [12-110(a)(5); 34-202(a)(6)]

G. **Current Zoning of Property:** _____

H. **Current use of property:**

H.1. _____ Current use(s) of the property are:

H.2. **Buildings or structures exist on the property.** If buildings or structures exist on the property, an affidavit is required stating that buildings & structures will be removed or that the proposed use of buildings, structures and land is or will be in compliance with all requirements of the LCLDC. **Attach as Exhibit PH-3.H.2. and entitle "Structure Affidavit".**[12-110(a)(9); 34-202(b)(3)]

H.3. **A Bona Fide Agricultural use exists on the property.** If the property owner intends to continue an existing agricultural use on the property subsequent to the zoning approval an Existing Agricultural Use Affidavit is attached as **Exhibit PH-3.H.3. and entitled "Agricultural Uses at Time of Zoning Application".**[12-110(a)(10); 34-202(b)(7)]

I. Land Use Classification:

_____	_____ Acres _____ % of total
_____	_____ Acres _____ % of total
_____	_____ Acres _____ % of total
_____	_____ Acres _____ % of total

J. Flood Hazard (write NA if not applicable): [34-202(a)(8)]

_____ The property is within an Area of Special Flood Hazard as indicated in the Flood Insurance Rate Maps (FIRM)s.

_____ The minimum elevation required for the first habitable floor is _____ NAVD.

K. Property Dimensions: [34-202(a)(8)]

- 1. Width (average if irregular parcel): _____ Feet
- 2. Depth (average if irregular parcel): _____ Feet
- 3. Total area: _____ Acres or square feet
- 4. Frontage on road or street: _____ Feet on _____ Street
 2nd Frontage on road or street: _____ Feet on _____ Street

L. Deed or Property Restrictions/Covenants. Are there any deed or other property restrictions or covenants on the property which is the subject of this application? _____YES. _____NO.

L.1. If the answer is YES, the application must include a copy of the deed restrictions or other types of covenants and restrictions on the parcel. **Label as Exhibit PH-3.L.2.**

L.2. If the answer is YES, the application must include a statement as to how the restrictions may affect the requested action. **Label as Exhibit PH-3.L.3.**

**PART 4
ACTION REQUESTED**

A. Action Requested:

_____ Planned Development Rezoning from _____ to _____ **MEPD**

B. Aviation Hazard: (put NA if not applicable)

_____ Property is subject to Airport Hazard District regulations. **Attached is Exhibit PH-4.B showing the property location on the Aerial Hazard Map. [34-1001 et seq]**

_____ A tall structures permit will be required.

_____ Property is located within Noise Zone: _____

C. Planning Communities. A meeting summary document for the required public informational session (put NA if not applicable).

_____ **Estero Planning Community.** Attached is **Exhibit PH-4.C.1** [34-373(a)(10); 33-54(a) & (b); Lee Plan Policy 19.5.3]

_____ **Caloosahatchee Shores Planning Community.** Attached is **Exhibit PH-4.C.2** [Lee Plan Policy 21.6.3]

_____ **Page Park Planning Community.** Attached is **Exhibit PH-4.C.3** [Lee Plan Policy 27.11.2]

_____ **Palm Beach Boulevard Planning Community.** Attached is **Exhibit PH-4.C.4** [Lee Plan Policy 23.5.2]

D. **Waivers from Application Submission Requirements:** The following waivers, approved by the Director of Zoning Services, are **attached as Exhibit PH-4.D.** [12-110(e)]

Section Number	Name of item
_____	_____
_____	_____
_____	_____
_____	_____

E. **Potable Water & Central Sewer.** Will the project be connected to potable water and central sewer as part of any development of the property? _____ YES. _____ NO.

E.1. **If the answer is NO**, please explain why the connection to potable water and/or central sewer is not planned. **Label explanation as Exhibit PH 4-E.1.**

E.2. **If the answer is YES**, please indicate the name of the Utility to which the connection(s) are proposed. _____ Provide a letter from the utility entity indicating the utility entity's ability to provide service to support the proposed development. **Label the letter as Exhibit PH-4.E.2 .[34-202(b)(8)]**

**PART 5
GENERAL INFORMATION**

A. **Comprehensive Plan Amendments** (check one):

- _____ There are **NO** LEE Plan Amendments pending that could affect the future use of this property.
- _____ The following LEE Plan Amendments **ARE** pending and could affect the future use of this property. (List uses and brief explanation of their effect on this application):

B. **Archaeological/Historical** (check one):

- _____ There are **NO** known or recorded historical or archaeological sites on the property and no part of the property is located within a level 1 or level 2 zone of archaeological sensitivity pursuant to LDC §22-106. [12-110(a)(17)]
- _____ There are known or recorded historical or archaeological sites on the property or part of the property is located within a level 1 or level 2 zone of archaeological sensitivity pursuant to LDC §22-106. Attached as **Exhibit PH-5.B** is a map indicating the nature and location of known or recorded historical or archaeological or areas of the property located within level 1 or level 2 zones of archaeological sensitivity including the outline of historic buildings and approximate extent of archaeological sites. [12-110(a)(17)]

C. Mining Plan [12-110(a)(15)]

C.1. Area to be excavated/mine footprint:

Depth	_____	Feet
Width	_____	Feet
Length	_____	Feet
TOTAL	_____	Acres
Estimated duration of extraction activity	_____	Years
Estimated cubic yards of material to be excavated	_____	Cubic Yards

	Height	Square Feet
C.2. Accessory mine uses [12-110(a)(12)]	_____	_____
Administrative offices	_____	_____
Rock crushing	_____	_____
Concrete/asphalt batch plant	_____	_____
Cement plant	_____	_____
Other:		
_____	_____	_____
_____	_____	_____
_____	_____	_____

	Height	Square Feet
C.3. Plant facilities [12-110(a)(13)]		
Fueling area	_____	_____
Vehicle service area	_____	_____
Truck washing	_____	_____

	Start Time	End Time
C.4. Proposed Hours of Operation [12-110(a)(14)]	_____	_____
Offices	_____	_____
Rock crushing/batch plant activity	_____	_____
Blasting	_____	_____
Excavation/resource extraction/draglines	_____	_____
Truck activity (arrival/loading/departures)	_____	_____

**PART 6
SUBMITTAL REQUIREMENTS**

THE NUMBER OF COPIES REQUIRED TO BE SUBMITTED FOR EACH OF THE FOLLOWING EXHIBITS IS AS FOLLOWS:

Req. # Copies*	Exhibit Number	SUBMITTAL ITEMS
15		Completed application for Public Hearing [12-110(a)]
1		Electronic copy of all submittal items
1		Filing Fee - [12-110(a)]
SUBMITTAL ITEMS		
3	PH-1.B.1	Notarized Affidavit of Authorization Form [12-110(a)(4); 34-202(b)(1)c]
15	PH-1.C.2	Additional Agents [12-110(a)(4); 34-202(b)(1)c.]
3	PH-2.B.1	Disclosure of Interest Form [12-110(a)(4); 34-201(b)(2)a]
3	PH-2.C.1	Subject property owners list (if applicable) [12-110(a)(4); 34-202(a)(5)]
3	PH-2.C.2	Subject Property Owners map (if applicable) [12-110(a)(4); 34-202(a)(5)]
15	PH-3.A.1	List of STRAP Numbers (if additional sheet is required) [12-110(a)(1); 34-202(a)(1)]
15	PH-3.B.1	Area location map (on 8.5" x 11" paper). A map marked to show the location of the property to be developed in relation to arterial and collector streets <u>as well as the location of existing easements and rights-of-way on or abutting the property.</u> [34-373(c)(4)b.]
5	PH-3.C.1	Legal Description (2 originals required, size 8 ½" by 11") [12-110(a)(1); 34-202(a)(1)]
5	PH-3.C.2	Sealed Sketch of Legal Description (2 originals required) [12-110(a)(1); 34-202(a)(1)]
5	PH-3.D.1	Boundary Survey (tied to State Plane Coordinate System) The survey depict all easements and encumbrances identified in the title certification submitted with the application. (2 originals required) [12-110(a)(1); 34-202(a)(2); AC-3-19]
5	PH-3.D.3	Title certification meeting the requirements of 10-154(2) must be provided with the survey [12-110(a)(3)]
15	PH-3.E.1	Aerial photograph meeting the requirements of 10-154(9). [12-110(a)(6)]
3	PH-3.F.1	List of Surrounding Property Owners [34-202(a)(6)]
3	PH-3.F.2	Map of Surrounding Property Owners [34-202(a)(7)]
2	PH-3.F.3	Mailing labels [34-202(a)(6)]
3	PH-3.H.2.	<u>"Structure Affidavit"</u> (if applicable) [12-110(a)(9); 34-202(b)(3)]
3	PH-3.H.3.	Affidavit entitled <u>"Agricultural Uses at Time of Zoning Application"</u> (if applicable) [12-110(a)(10); 34-202(b)(7)]
3	PH-3.L.1	Deed Restrictions\Covenants (if applicable) [34-202(b)(2)]
3	PH-3.L.2	Narrative addressing effect of Deed Restrictions (if applicable) [34-202(b)(2)]
4	PH-4.B	Aviation Hazard Map (if applicable) [34-1001 et seq.]
4	PH-4.C.1	Summary of Public Informational Session for Estero Planning Community (if applicable) [33-54; Lee Plan Policy 19.5.3]
4	PH-4.C.2	Summary of Public Informational Session for Caloosahatchee Shores Planning Community (if applicable) [Lee Plan Policy 21.6.3]
4	PH-4.C.3	Summary of Public Informational Session for Page Park Planning Community (if applicable) [Lee Plan Policy 27.11.2]
4	PH-4.C.4	Summary of Public Informational Session for Palm Beach Boulevard Planning Community (if applicable) [Lee Plan Policy 23.5.2]
15	PH-4.D	Approved Waivers (if applicable) [12-110(e)]

Req. # Copies*	Exhibit Number	SUBMITTAL ITEMS
4	PH-4.E.1	Potable Water & Central Sewer. If the answer to Item 4.E was NO, an explanation must be attached providing the reason(s) why connection to potable water and central sewer system is not proposed as part of any development of the parcel subject to the rezoning request. [34-202(b)(8)]
4	PH-4.E.2	Potable Water & Central Sewer. If the answer to Item 4.E was YES, provide a letter from the appropriate utility entity indicating the utility entity's ability to provide service to support the proposed development. [34-202(b)(8)]
DESCRIPTION OF EXISTING CONDITIONS & OTHER SUBMITTALS		
15	PH-6.A	Historical and Archeological Data and Map [12-110(a)(17)]
15	PH-6.B	LEE Plan Compliance Narrative [12-107]
15	PH-6.C	Mining Plan. (2 originals required in both 11" x 17" and 24" x 36' sizes) [12-110(a)(15)]
15	PH-6.D	Mine Site Maps and Engineering Plans [12-110(a)(25)]
15	PH-6.E	Landscape Plans in Compliance with LCLDC Sections 12-113 and 12-119 [12-111(26); 12-113; 12-119]
3	PH-6.F	Site Design Requirements/Narrative. A narrative explanation as to how the proposed development complies with the Site Design Requirements set forth in LCLDC Section 12-113. [12-113]
5	PH-6.G	Traffic Impact Statement (TIS). A TIS must be submitted meeting the criteria set forth in section 12-116(a). [12-110(a)(7)]
5	PH-6.H	Traffic Mitigation. A traffic mitigation plan addressing the impacts recognized by the TIS and the criteria set forth in sections 12-116(b), (c) and (d). [12-110(a)(8)]
15	PH-6.I	Narrative Describing the Proposed Mine Operation. [12-110(a)(11)]
15	PH-6.J	Proposed Accessory Mine Uses. [12-110(a)(12)]
15	PH-6.K	Proposed Physical Plant Facilities. [12-110(a)(13)]
15	PH-6.L	Proposed Hours of Operation. [12-110(a)(14)]
15	PH-6.M	Hazardous Materials Emergency Plan. [12-110(a)(16)]
15	PH-6.N	Test Boring Data. [12-110(a)(18)]
15	PH-6.O	Federal and State Permits/Applications. [12-110(a)(19)]
15	PH-6.P	Fire Protection Plan (if applicable). [12-110(a)(20)]
15	PH-6.Q	Environmental Assessment Report. [12-110(a)(21)]
15	PH-6.R	Reclamation Plan. [12-110(a)(22); 12-119]
15	PH-6.S	Wildlife Habitat Submittal. [12-110(a)(23); 12-113(p)]
15	PH-6.T	Post Mining Plan/Future Uses. [12-110(a)(24); 12-122]
15	PH-6.U	Schedule of Uses. A schedule of uses keyed to the Mining Plan as well as a summary for the entire property including the information required by LCLDC Section 34-373(a)(8). [34-373(a)(8)]
15	PH-6.V	Water Quality and Quantity Submittals [12-117]
15	PH-6.W	Schedule of Deviations and Written Justification. [12-113(u); 34-373(a)(9); 34-412(a)]
3	PH-6.X	Decision-Making Compliance. A narrative explanation as to how the proposed development complies with the guidelines for decision-making embodied in LCLDC Sections 12-108, 12-112, 34-83, and 34-145(d)(3).

* At least one copy must be an original.

**PART 1 AFFIDAVIT A1
(EXHIBIT PH-1.B.1)**

**AFFIDAVIT FOR PUBLIC HEARING
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT**

I, _____, swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

(Type or printed name)

STATE OF _____

COUNTY OF _____

The foregoing instrument was sworn to (or affirmed) and subscribed before me this _____ (date) by _____ (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.

Signature of person taking oath or affirmation

Name typed, printed or stamped

Title or rank

Serial number, if any

**PART 1 AFFIDAVIT A2
(EXHIBIT PH-1.B.1)**

**AFFIDAVIT FOR PUBLIC HEARING
APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED
COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE**

I, * _____ as _____
of _____, swear or affirm under oath, that I am the owner
or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I am hereby authorizing the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

*Name of Entity (corporation, partnership, LLP, LC, etc)

Signature (Type or printed name)

(title of signatory)

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to (or affirmed) and subscribed before me this _____ (date) by _____ (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.

Signature of person taking oath or affirmation Name typed, printed or stamped

Title or rank Serial number, if any

***Notes:**

- *If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.*
- *If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should typically be signed by the Company's "Managing Member."*
- *If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.*
- *If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.*
- *If the applicant is a trustee, then they must include their title of "trustee."*
- *In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.*

**EXHIBIT PH-2.B.1
DISCLOSURE OF INTEREST FORM FOR:**

STRAP NO. _____ **CASE NO.** _____

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name and Address	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

4. If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name and Address	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract: _____

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address	
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: _____
(Applicant)

(Printed or typed name of applicant)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ (date)

by _____ who is personally known to me or who has produced
_____ as identification. .

(SEAL)

Signature of Notary Public

Printed Name of Notary Public

**EXHIBIT PH-1.C.2
ADDITIONAL AGENTS**

Company Name: _____

Contact Person: _____

Address: Street : _____

City, State, Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Company Name: _____

Contact Person: _____

Address: Street : _____

City, State, Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Company Name: _____

Contact Person: _____

Address: Street : _____

City, State, Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Company Name: _____

Contact Person: _____

Address: Street : _____

City, State, Zip: _____

Phone: _____ Fax: _____

E-mail: _____

GUIDE FOR FILING AN APPLICATION FOR A PUBLIC HEARING

If questions of interpretations arise as a result of our attempt to provide easy-to-understand instructions for completing the application form(s), the provisions of the Land Development Code will be the final authority.

GENERAL INSTRUCTIONS

1. All properties within a single application must be abutting. However, the Director may, at his discretion, allow a single application to cover non-abutting properties where it is in the public interest due to the size or scope and nature of the request, and there is a rational continuity to the properties in question.
2. The application for a mine excavation planned development rezoning must be filed by the property owner or authorized representative.
3. If there is more than one owner, either legal or equitable, then all owners must jointly initiate the application or petition except that:
 - a. If a husband and wife own the property, only one of them needs to sign the application;
 - b. If the property is subject to a land trust agreement, the trustee may initiate the application;
 - c. If the fee owner is a corporation, any duly authorized corporate official may initiate the application;
 - d. If the fee owner is a partnership, a general partner may initiate the application;

Notwithstanding the requirements of LCLDC Section 34-201(a)(1)a., the applicant for any action requiring a public hearing must sign a statement, under oath, that he is the owner or the authorized representative of the owner of the property and that he has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the action approved by the county in accordance with this Code. This must also include a statement that the property owner will not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed by the approved action. See Application Form, PART 1.B. and Exhibit PH-1.B.1.

4. Before an application may be accepted, it must fully comply with all information requirements enumerated in section 34-202 et seq., unless specifically stated otherwise in Chapter 34 and Chapter 12 of the Lee County Land Development Code.
Upon written request, the Director may modify the submittal requirements contained in this section if the applicant clearly demonstrates that the submission will have no bearing on the review and processing of the application. The request to the Director must be submitted prior to submitting this application. Multiple waiver requests must be made on individual request forms indicating each separate request. The Director's written response must accompany the application submitted and will become a part of the permanent file.
5. The applicant is responsible for the accuracy and completeness of the application. Any additional time delays or expenses necessitated because of inaccurate or incomplete information will be the responsibility of the applicant.
6. Applications must be submitted in person. Mailed-in applications will not be processed.
7. Unless specifically stated to the contrary, all attachments and exhibits must be of a size that will fit or conveniently fold to fit into a letter size (8 ½" x 11") folder.
8. All applicants must pay an application fee as set forth in the County External Fees and Charges Manual.

INSTRUCTIONS FOR COMPLETING COVER PAGE

Case number: Will be inserted by County staff.

Project Name (if applicable): Provide the name that you wish to have assigned to this project. The name is limited to 30 characters and spaces.

Applicant's Name-Authorized Agent: The applicant's name must be provided. This is the person to whom all County correspondence will be directed. This is usually the person who signs the Applicant's "Statement Under Oath". (See PART 1, Affidavit Form A1 or A2).

STRAP(S). The STRAP (Section, Township, Range, Area, Parcel) number is the 17- digit number used by the Property Appraiser to identify specific parcels. Where there is more than one parcel encompassed by the application, the STRAP number for every parcel must be provided. (If additional sheets are necessary label as "Exhibit PH-1".)

Mandatory Preapplication Meeting: The applicant must attend a preapplication meeting with appropriate County staff prior to submittal of the MEPD application. Appropriate County staff representatives from the following departments must be in attendance at this meeting: Zoning, Development Services, Department of Transportation, Natural Resources and Environmental Sciences; and local representatives from the Department of Environmental Protection, Florida Department of Transportation, South Florida Water Management District and the Army Corps of Engineers should also be invited to attend. During the meeting the applicant must be prepared to discuss the following

topics: location of the project, extent/boundaries of the mine project, size of mine, depth of the mine, amount of material the applicant anticipates will be excavated over the life of the mine, proposed duration of mine activity, mine design alternatives including cell mining, potential associated mine activities, phasing, water issues, transportation impacts, watershed boundaries, habitat issues, environmental issues, water monitoring, surrounding uses, Lee Plan compliance, and state and federal permit issues. The applicant must bring maps and other documentation to facilitate discussion with respect to these issues. Subsequent to the meeting, the County will provide the applicant with a memorandum outlining issues relevant to the applicant's future submittal. This memorandum is intended to assist the applicant in preparing the formal submittal and does not confer any specific rights to the applicant with respect to approvals or submittals. [12-108(c)]

Planning Community Public Meetings: If the proposed development to occur within or adjacent to a planning community that is the subject of specific Lee Plan Goals, Objectives and Policies (e.g. Estero Planning Community) a meeting within the affected planning community is required. A copy of the minutes of the meeting or a meeting summary must be provided as part of the application. **(See Application Form Part 4.C.)**

INSTRUCTIONS FOR COMPLETING /PART 1: APPLICANT/AGENT INFORMATION

- A. Name of applicant.** Insert the name of the applicant (this is the person who signs the Applicant's "Statement Under Oath").
- B. Relationship of Applicant to Owner.** Indicate whether the applicant is the sole owner of the property (individual or husband and wife) or designate other relationship to the owner.
If the applicant is not the sole owner of the property but has been authorized to submit this application on behalf of the owner(s), or a contract purchaser/vendee, check the appropriate response and submit the appropriate Notarized Affidavit Form. A statement is to be signed by the applicant, under oath, that he is the authorized representative of the owner(s) of the property and has full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of the issuance of a development order in accordance with this code. The signed statement also constitutes an agreement that the property will not be transferred, conveyed, sold or subdivided unencumbered by the covenants and restrictions imposed as part of the development order. {See **Part 1 Exhibits** for suggested forms where application is signed by either an individual owner or applicant (Affidavit A1; Exhibit PH-1.B.1), or is signed by a corporation, limited liability company (L.L.C.), limited company (L.C.), partnership, limited partnership, or trustee (Affidavit A2; Exhibit PH-1.B.1).
- C. Authorized Agent.** Indicate the name of the individual (or contact person if a company) who is to receive all County-initiated correspondence regarding the application. This may be the owner, the applicant, or an agent authorized by the owner or applicant to receive all County-initiated correspondence.
- C.2. Additional Agent(s).** List the names of other agents (consultants) that the County may contact concerning the application that are in addition to the authorized agent.

INSTRUCTIONS FOR COMPLETING PART 2: PROPERTY OWNERSHIP

- A. Property Ownership: Single owner (individual or husband & wife only).** If the property is owned by an individual or husband and wife, complete the form with the name, address, etc., of the owner.
- B. Multiple owners (Corporation, partnership, trust, association).** If the property is owned by more than one person (corporation, partnership, trust, association, etc.) submit an executed copy of Exhibit PH-2.B.1 "Disclosure Form."
A *Disclosure Form* is a list of the names of all owners, stockholders and trust beneficiaries, (including percentages of interest) of the property. It is required for all corporations, trusts and partnerships, as well as for contract purchases. Disclosure is not required for any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interests are solely equity interests which are regularly traded on an established securities market in the United States or another country.
- C. Multiple parcels.** If the property covered by the application consists of more than one parcel, submit a list of all of the owners and their mailing address, keyed to a map illustrating the individual owners interest in the property.

- D. **Date property was acquired by present owner(s).** Indicate the date the property was purchased by the current owner(s). Copy of the recorded documents establishing title ownership should be attached.

INSTRUCTIONS FOR COMPLETING PART 3: PROPERTY INFORMATION

- A. **STRAP number(s).** The STRAP (Section, Township, Range, Area, Parcel) number is the 17- digit number used by the Property Appraiser to identify specific parcels. STRAP numbers must be provided for all parcels subject to the application.

- B. **Street Address of Property.** May be obtained from Property Appraiser if unknown by applicant.

C.&

- D. **Legal Description and Sketch to Accompany Legal Description.** A metes and bounds legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with Florida Statutes, Chapter 177. The legal description must specifically describe the entire perimeter boundary of the property subject to the zoning action, with accurate bearings and distances for every line, but need not describe each individual parcel. The director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on county maps. In accordance with Rule 61G-17, F.A.C., the legal description must be accompanied by a sealed sketch of the legal description.

A list of all STRAP numbers subject to the zoning action must be provided (see PART 3.A).

Boundary survey. A boundary survey of the subject property must be submitted. The boundary survey must identify and depict all easements affecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection. All boundary surveys must meet the minimum technical standards for land surveying in the state, as set out in chapter 61G 17-6, F.A.C. The survey must be tied to the state plane coordinate system for the Florida West Zone (North America Datum of 1983/1990 Adjustment) with two coordinates, one coordinate being the point of beginning (POB) and the other an opposing corner. The perimeter boundary must be clearly marked with a heavy line and must include the entire area to be developed.

A boundary survey is required for all Mining Excavation Planned Development Applications. It must also be based upon an opinion of title or certificate of title meeting the requirements set forth in Lee County Administrative Code 13-19. [34-202(a)(2); 12-110(2)]

Title certification. A document, no greater than 90 days old at the time of initial submittal, must be submitted to establish the following information concerning title to the subject property: (a) the owner or owners of the fee title; (b) all mortgages secured by the property; (c) all easements encumbering the property; and, (d) the legal description of the property. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company. The certification must be unequivocal. A title binder/commitment or title insurance policy is not acceptable to meet this requirement. [10-154(2); 12-110(a)(3)].

- E. **General Location of Property.** Submit a map, at suitable scale, drawn on an 8½ inch by 11 inch size sheet, showing the location of the property to be developed in relation to arterial and collector streets as well as the location of existing easements and rights-of-way on or abutting the property. [34-373(a)(4)b.]

Also submit a brief set of directions showing how a person could find the property. Reference at least one major Road such as U.S. 41, Alico Road, Bayshore, Pondella, etc.

- E.1. **Aerial photograph.** A recent aerial photograph of the property and all properties within 660 feet of the perimeter of the property, with a scale of one inch equals 300 feet, shall be submitted. [12-110(a)(6); 10-154(9)]

- F. **Surrounding Property Owners.** A complete list, map, and two sets of mailing labels, of all property owners, and their mailing addresses, for all property within 500* feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request. The list and mailing labels may be obtained from the Property Appraisers office. The map must reference by number or other symbol the names on the surrounding property owners list. The applicant is responsible for the accuracy of the list and map.

In those instances where fewer than 10 owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet. [34-202(a)(6) & (7)]

- G. **Current Zoning of Property.** Indicate the current zoning on the property.

H. Use of Property.

H.1. Current Use of Property. Provide a brief description of what uses are currently on the property.

H.2. Structure Affidavit. If buildings or structures exist on the property, an affidavit is required stating whether the buildings and structures will be removed. If the buildings/structures will remain, the affidavit must identify the proposed use. The boundary survey must depict the existing buildings and structures. The exhibit should be titled "Structure Affidavit."

H.3. Existing Agricultural Use Affidavit. If any portion of the property is used for bona fide agricultural uses, provide a statement describing the type and intensity of agricultural uses in existence on the property on the date of the application. The statement must include acreage figures for each use and must also include an exhibit depicting the location of the uses on a copy of the boundary sketch. If the property owner intends to continue an existing agricultural use on the property subsequent to the zoning approval the Affidavit must indicate this intent and be accompanied by with a map of the identifying the existing use and its location. The exhibit should be titled "Existing Agricultural Uses at Time of Zoning Application."

I. Land Use Classification. Indicate the land use category (ies) of the property as indicated on the Future Land Use Map of Lee County.

J. Flood Hazard. Indicate whether or not the property is located within an area of Special Flood Hazard as indicated in the Flood Insurance Rate Maps (FIRMS). If it is within such an area, indicate the minimum elevation required for the first habitable floor. This information may be obtained from Residential Building Plan Review at (239)533-8597.

K. Property Dimensions. Self explanatory. If the property is adjacent to more than one street, provide length of frontage on both streets.

L. Property Restrictions. The application must include a copy of the deed restrictions or other types of covenants and restrictions on the parcel, along with a statement as to how the restrictions may affect the requested action. If there are no restrictions on the property, the applicant must indicate so on the application form. [34-202(b)(2)]

INSTRUCTIONS FOR COMPLETING PART 4: ACTION REQUESTED

A. Action Requested. Indicate the existing zoning category from which this MEPD zoning is requested.

B. Aviation Hazard. Indicate whether or not the property is subject to Section 34-1001 et seq. and whether or not a Tall Structures permit will be required. If the property is located within a noise zone, indicate which noise zone. [34-1001 et. Seq.]

C. Planning Communities.

1. Estero Planning Community-Community Review: If the proposed development is located within the Estero Planning Community (as depicted in the Lee County Comprehensive Plan on Lee Plan Communities Map 16), a meeting is required with the community and a copy of the Estero Planning Community Meeting Summary Document must be submitted. You may contact Neal Neothlich, Chairman of the Estero Community Planning Panel by email at nen13@aol.com or Bill Brown, Secretary of the Estero Community Planning Panel by email at aquilla@ix.netcom.com. [33-54(a)(2) & (b); 34-202(a)(10)a.]

2. Caloosahatchee Shores Community Plan-Community Review: If the proposed development is located within the Caloosahatchee Shores Community Plan, a meeting is required with the community and a copy of the Meeting Summary Document must be submitted.

3. Page Park Community Plan-Community Review: If the proposed development is located within the Page Park Community Plan, a meeting is required with the community and a copy of the Meeting Summary Document must be submitted.

4. Palm Beach Boulevard Community Plan-Community Review: If the proposed development is located within the Palm Beach Boulevard Community Plan, a meeting is required with the community and a copy of the Meeting Summary Document must be submitted.

- D. Waivers from Application Submission Requirements:** Upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the Director prior to submitting the application. A copy of the request and the Director's written response must accompany the application and will become a part of the permanent file. [10-110(e)]

Indicate on the application form the section(s) of the Land Development Code for which the Director has granted a waiver. Attach the waiver(s) to the application as Exhibit PH-4.E.

- E. Potable Water & Central Sewer:** Indicate "YES" if it is proposed that the project will be connected to potable water and a central sewer system as part of any development of the property and provide a letter from the appropriate utility entity indicating the utility entity's ability to provide service to support the proposed development. If it is not proposed that the project will be connected to potable water and a central sewer system, indicate "NO" and provide an explanation of the reason(s) why such connection is not proposed. [34-202(b)(8)]

INSTRUCTIONS FOR COMPLETING PART 5: GENERAL INFORMATION

- A. &**
B. Self Explanatory.
- C. Mining Plan.** Provide the required information for each section describing the mine footprint, accessory uses, plant facilities, and hours of operation. [12-110(a)(15), (12), (13), and (14)]

INSTRUCTIONS FOR COMPLETING PART 6: SUBMITTAL REQUIREMENTS

1. This table represents a summary of the required submittal items. The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant.
2. All information submitted with the application becomes a part of the public record and will be a permanent part of the file.
3. Please submit all applications in person. Mailed-in applications will not be processed.
4. All attachments and exhibits submitted must be legible, suitable for recording, and of a size that will fit or conveniently fold to fit into a letter size (8 ½" x 11") folder.
5. Department staff will review this application for compliance with requirements of the Lee County Land Development Code. The applicant will be notified of any deficiencies.

PUBLIC HEARING APPLICATION FORM. All applications for public hearings must be accompanied by an Application in a form prescribed by the County. See PART 6 for details.

DESCRIPTION OF EXISTING CONDITION & OTHER SUBMITTALS. The application for a MEPD must be accompanied by detailed information describing the existing conditions and other information on the subject property. See PART 6 for details.

Historical and Archeological Data. Submittal information must indicate whether the property:

- a. is located within a Level 1 or 2 zone of archeological sensitivity pursuant to the survey titled "An Archeological Site Inventory and Zone Management Plan for Lee County, Florida", or
- b. contains an archeological site that is listed on the Florida Master Site File.

If the property is located in an archeologically sensitive zone, a certificate to dig must be included with the application. Florida Master Site File forms for historical or archaeological resources, facade or other historic or scenic easements related to the subject property or reports prepared by a professional archaeologist as may be required by chapter 22 must be included. [120110(a)(17)]

Lee Plan Consistency. The following Lee Plan policies must be adhered to in applying for and conducting mining activities:

- (1) Mining activities and mining reclamation plans in or near important water resource areas must be designed to minimize the possibility of contamination of the water during mining activity and after completion of the reclamation.
- (2) Mining operations must meet or exceed local, state and federal standards for noise, air, water quality, and vibration. (Lee Plan Policy 7.1.1)
- (3) Mining activities must be located and designed so as to minimize adverse environmental impacts and water resource impacts.
- (4) Mining activities, and industrial uses accessory to mining activities, must:
 - a. Have adequate fire protection, transportation facilities, wastewater treatment and water supply; and
 - b. Not precipitate significant negative effects with respect to dust, glare, light trespass and noise on surrounding land uses and natural resources.
- (5) Mining activities and reclamation efforts must facilitate the connection of natural resource extraction lakes and borrow lake excavations into a system of interconnected lakes and flowways that will enhance wildlife habitat values, and strengthen environmental benefits. [12-107]

A narrative explanation as to how the proposed development complies with: (a) the Lee Plan; (b) the design standards set forth in LCLDC Section 34-411; and (c) the guidelines for decision-making embodied in LCLDC Sections 34-145(c)(2)a; 34-145(c)(2)e.; 34-145(d)(3) and 12-112 must be provided.

Mining Plan. The mining plan is based upon the proposed area to be excavated, also known as the "mine footprint". It is a graphic depiction of the mine footprint in relation to the boundary of the mine site and other site related activities. The mining plan also includes an estimate of the life of the mine in years based upon the yardage or material to be removed while the mine is in operation and the length of time necessary to process the material and haul it off-site. The mine plan must include a realistic estimate with respect to when the mine excavation activity will be complete and reclamation will be commenced.

If a proposed mine project is comprised of areas that will be mined separately, though located within the boundary of the mine project, then a "separate" mining plan will be required for each proposed mine cell or area. As an example, if there is a natural boundary between two excavation footprints/mine lakes created by a wetland or conservation area, each of these areas must be specifically and separately addressed in the mining plan [12-110(a)(15)]

Mine Site Plan; Site Map and Engineering Plan Set. A series of maps and engineering plans, including drawings prepared and sealed by an appropriate registered professional in the State of Florida (e.g. engineer, architect, surveyor) must be provided to obtain MDO approval in accord with the provisions of this section. This map and plan series, known as the Mine Site Plan, must meet and include the following minimum criteria:

- (1) Be drawn at an appropriate scale, to be determined at the pre-application meeting based upon the size of the property. The scale must be sufficient to allow all information to be clearly and legibly depicted and described. A consistent scale between the maps and plans is preferred and recommended to assist in review of the information provided and to minimize the need to request additional submittals.
- (2) Identify the date each document is prepared and any subsequent revision dates.
- (3) Include a north directional arrow, pointing to the top of the page or to the left side of the page.
- (4) Include a certification statement specifically stating: "I, the undersigned, hereby certify that this map is correct, and shows the information required by the requirements of the Land Development Code to obtain a MEPD, MDO or MOP."
- (5) Mining plan. Consistent with the mining plan criteria set forth in section 12-110(a)(15), the extent of the area to be mined (i.e. mine footprint) must be depicted. This includes all proposed mine cells or areas. Other mine uses and facilities must also be depicted.
- (6) The names and location of existing:
 - a. Streams, creeks, sloughs, natural flowways, floodways, wetlands, water bodies within the determined watershed area.
 - b. Indigenous vegetation areas.
 - c. Wildlife habitat areas.
 - d. Easements within the property boundary (as identified on the required title opinion) including publicly and privately owned Conservation easements and the means by which access to the easements is obtained.
 - e. Percolation ponds and drainfields within the determined watershed area.
 - f. Public and private roads; and vehicle access routes to nearest county-maintained road.
 - g. Railroad.
 - h. Utility lines and easements.
 - i. Existing buildings.
 - j. Cemeteries within 100 feet of the property boundary.

- k. Test boring locations.
 - l. Public wellfields.
 - m. Public and permitted private wells with GPS or surveyed locations of wells along with wellhead elevations within a one mile radius around the mine project boundary.
- (7) The specific locations and descriptions of proposed:
- a. Conservation and preservation areas, along with the access to these areas.
 - b. Buffers.
 - c. Indigenous areas to remain and indigenous replanting areas.
 - d. Littoral zone created wetland areas.
 - e. Physical plant facilities or other facilities supporting the operation, including but not limited to, scale houses, administrative offices, proposed fueling, vehicle servicing, and truck and tire washing facilities.
 - f. Accessory mine operation facilities such as, but not limited to, rock crushing operations, concrete and asphalt batch plants, cement plants etc.
 - g. Stockpile areas, including a typical cross-section of the area.
- (8) Profile plans showing:
- a. The proposed depth of excavation and slope of banks during excavation operations and after reclamation.
 - b. The proposed littoral zone created wetland areas.
 - c. Buffer areas.
 - d. Any other areas that need a cross-section to demonstrate compliance with the code requirements.
- (9) Engineering plans. Engineering plans must be provided with a level of detail that would otherwise be found sufficient to allow issuance of a development order under chapter 10 for the proposed mine activity, including but not limited to the following items:
- a. Traffic related issues:
 - 1. Vehicular ingress and egress to the project from the public right-of-way, including site related improvements required under section 12-116.
 - 2. On-site access roads and truck staging areas; services delivery areas and off-street parking areas.
 - 3. Traffic count stations required under section 12-116.
 - b. Water related issues:
 - 1. Monitoring wells required under section 12-117.
 - 2. If dewatering is proposed, the details of the proposed activity must be provided in accord with the provisions set forth in section 12-117.
 - c. Environmental issues:
 - 1. Drainage and stormwater management plan. A drawing showing the location of all curbs and gutters, inlets, culverts, swales, ditches, water control structures, water retention or detention areas, and other drainage or water management structures or facilities must be submitted. Sufficient elevations must be shown to adequately depict the direction of flow of stormwater runoff from all portions of the site. A copy of all drawings and calculations submitted to the South Florida Water Management District must also be submitted. The plan must identify the U.S. Department of Agriculture Soil Conservation Service soils classifications of the site to determine the feasibility of the proposed pollution control and drainage plans.
 - 2. Reclamation plan meeting the requirements of section 12-119.
- (10) Proposed buildings or proposed structures. The building envelope, including the perimeter of the area within which the building will be built, the height of all buildings and structures, the maximum gross floor area, and a depiction of no less than the minimum number of required parking spaces, including handicapped spaces.
- (11) Utilities. A statement indicating the proposed method intended to provide water, sewer, electricity, telephone, refuse collection and street lighting, including but not limited to:
- a. The names and address of all utilities, governmental or private, intended to supply the service.
 - b. The names and addresses of the owners of all existing public water and sewage systems within one-quarter mile of the proposed development.
 - c. A plan showing the location and size of all water mains and services, fire hydrants, sewer mains and services, treatment plants and pumping stations, together with plan and profile drawings showing the depth of utility lines and points where utility lines cross one another or cross storm drain or water management facilities. The location of services must be shown.
- (12) Exterior lighting plan, photometrics and calculations. An exterior lighting plan and photometric information must be submitted. The plan and photometric information must be provided in full compliance with section 34-625 and demonstrate compliance with all standards and criteria specified therein.
- (13) Calculations and other pertinent materials. The Development Services Director may also require submission of calculations in support of all proposed drawings, plans and specifications. Calculations, data and reports to substantiate engineering designs, soil condition, flood hazards, compensation of floodplain storage (see section 10-253), wet season water table, etc., may be required. [12-110)a(25); 12-111]

Landscape Plans/Standards. Section 12-113 (part).

- (l) Open Space. For purposes of chapter 12 only, open space requirements applicable to the mine will be deemed satisfied if the mine site maintains the buffers, indigenous area, setbacks, and wildlife habitat areas required under this chapter or as otherwise provided in the approved MEPD resolution. The lake (or mine footprint) is considered the impacted area and is not included as a means of meeting open space requirements otherwise contemplated by the underlying zoning approvals.
- (m) Indigenous Preservation and Replanting. Mines must provide 25% of the project site as indigenous preservation or as on-site indigenous replanting if the property does not contain existing indigenous plant communities. Created marsh wetland littoral zone areas may be counted towards the on-site indigenous preservation requirements.

On-site indigenous replanting plans approved by the County must include a minimum of four native tree and four native shrub species. Native trees must be installed at a minimum of 100' on center per acre and native shrubs must be installed at a minimum of 50' on center per acre. 50 percent of the native trees must be 3' tall and the balance of the trees may be 1' tall. Native shrubs must be installed at 1 gallon container size. No more than 25% of one species can be utilized. Indigenous replanting areas must have 80% survivability for a period of five years and be maintained in perpetuity. The indigenous preserve and replanting areas must be designed to provide interconnectivity to adjacent preserves and conservation lands with a particular emphasis on the incorporation of existing and historic flowways. An indigenous management plan must be submitted to address the long term maintenance of the on-site preservation/conservation easement areas.

The created marsh wetland littoral zone, indigenous preserves, replanted indigenous areas, preserved and restored flowways, buffers, and open space used to meet County requirements must be maintained in perpetuity even with a change in land use.
- (n) Invasive Exotic Removal. An invasive exotic removal plan must be adopted as part of the MEPD approval that is acceptable to environmental sciences. The removal may be phased with long term maintenance continuing in perpetuity. The invasive exotics to be removed must be consistent with section 10-420(h).
- (o) Buffers. Buffers are required in accordance with the following standards.
 - (1) The following buffers must be provided when the mine property abuts the listed use or zoning district, whichever is most restrictive:
 - a. Right-of-way:
 - 1. Minimum 50' width, maintained at natural grade;
 - 2. Every 100' of the right-of-way buffer must consist of:
 - Ten 10' trees with 2" caliper and 4' spread
 - Ten 5' trees with 1" caliper and 2' spread
 - 100 native shrubs 24" in height
 - 3. 50% of the required trees must be native pines; 30% must be large native canopy trees (e.g. live oaks); and 20% native palms or appropriate native wetland vegetation.
 - b. Residential:
 - 1. Minimum 150' width, maintained at natural grade;
 - 2. Every 100' of the residential buffer must consist of:
 - Fifteen 10' trees with 2" caliper and 4' spread
 - Ten 5' trees with 1" caliper and 2' spread
 - 150 native shrubs 24" in height
 - 3. 50% of the required trees must be native pines; 30% must be large native canopy trees (e.g. live oaks); and 20% native palms or appropriate native wetland vegetation.
 - c. Agricultural:
 - Minimum 50' width, maintained at natural grade.
 - d. Conservation Lands:
 - 1. Minimum 100' width, maintained at natural grade;
 - 2. Every 100' of the conservation lands buffer must consist of:
 - Ten 10' trees with 2" caliper and 4' spread
 - Ten 5' trees with 1" caliper and 2' spread
 - 100 native shrubs 24" in height
 - 3. Seeded with native herbaceous plants.
 - (2) Standards applicable to all Buffers.
 - a. Vegetation must be allowed to grow to natural height and form. Trimming is limited to health and safety maintenance pruning (i.e. shrubs, trees, and palms may not be hedged or formally shaped).
 - b. Buffer plantings must occur at grade, unless otherwise conditioned within the MEPD resolution.
 - c. Existing native vegetation may be used to meet the buffer requirements.
 - d. The County may grant a request to use smaller plant material, as long as the equivalent overall height is achieved per linear foot.

- e. Buffer plants may not be installed in a straight line. Plantings must be installed in a random fashion throughout the width of the buffer to mimic a natural system.
- f. The Director has the discretion to require a more restrictive buffer when deemed necessary for compatibility in accord with the following:
 - 1. If a berm is deemed necessary by the County, it must be located at the distance closest to the mine within the buffer. Berms may not exceed 3:1 slope and must be limited to a maximum height of 8 feet.
 - 2. If any portion of the buffer plantings is to occur on the berm, a specific condition must be included in the MEPD resolution or MDO approval.
- g. Buffers must be installed prior to issuance of a MOP (via final MDO certificate of compliance) and prior to the excavation of materials for hauling off-site.
- h. Created marsh wetland littoral zone areas, on-site indigenous preserve areas and wildlife habitat areas may be counted towards the buffer area requirements. [12-113]

Section 12-119. See Reclamation Plan below.

Site Design Requirements/Narrative. A narrative statement must be provided addressing the methods and techniques utilized to explain how the proposed development will comply with the Site Design Requirements and standards detailed in LCLDC Section 12-113 (see those requirements below).

Site Design Requirements.

- (a) Design Standards. Mining activities will be subject to the following design standards. The Board of County Commissioners may modify these standards as a condition of approval when in the public interest, or where they determine a particular requirement unnecessary due to unusual circumstances.
- (b) Mining operations must be located, designed and operated to:
 - (1) Be compatible with surrounding private and publicly owned lands with special consideration given to protection of surrounding conservation and preservation owned lands.
 - (2) Avoid adverse effects to existing agricultural, residential or conservation activities in the surrounding area.
 - (3) Avoid adverse effects from dust, noise, lighting, or odor on surrounding land uses and natural resources.
 - (4) Comply with the outdoor lighting provisions (except fixture mounting height standards) of this Code.
 - (5) Cause minimal impacts to onsite and offsite ambient surface or groundwater levels quality and quantity.
 - (6) Maintain established premining wet and dry season water level elevations and hydroperiods to restore and sustain water resources and adjacent wetland hydrology on and off-site during and upon completion of the mining operations.
 - (7) Preserve and enhance existing natural flowways that the County deems important for local or regional water resource management.
 - (8) Restore historic flowways that the County deems important for local or regional water resource management.
 - (9) Preserve indigenous areas that are occupied wildlife habitat to the maximum extent possible.
 - (10) Provide interconnection to off-site preserves and conservation lands via indigenous preservation, flowway preservation or restoration, and appropriate planted open space or buffer areas.
 - (11) Maintain minimum surface and groundwater levels within the site boundaries as deemed appropriate by Natural Resources staff during the MEPD approval process.
 - (12) Be designed to mimic or restore the natural system predisturbed water budget.
- (c) Setbacks for excavation site.
 - (1) Excavations are prohibited within:
 - a. 150 feet of an existing street right-of-way line or easement; and
 - b. 150 feet of any private property line under separate ownership.
 - c. 150 feet from an adjacent residential property line.
 In all cases, the most restrictive setback will apply.
 - (2) A 500' radial setback is required from existing permitted public well sites for mining operations approved after June 24, 2003.
 - (3) To ensure protection of surface and groundwater resources, appropriate excavation setbacks from preserve areas and adjacent properties will be determined through the environmental analysis and review process based upon site specific conditions.
 - (4) The Board of County Commissioners may allow reduced setbacks as part of the MEPD approval provided:
 - a. The reclamation plan indicates how access will be made to future development;
 - b. The reclamation plan indicates that the setback area will not be developed after restoration; and
 - c. A closer setback will not be injurious to other property owners or the water resources.
- (d) Setbacks for accessory buildings or structures.
 - (1) Setbacks for accessory buildings or structures must be shown on the engineered site plan set.
 - (2) No crusher, mixing plant, bin, tank or structure directly involved in the production process may be located less than:

- a. 660 feet from any residentially zoned property or use under separate ownership; or
- b. 250 feet from all nonresidential zoning districts under separate ownership.

To allow flexibility, the general area of accessory buildings, structures and processing facilities must be shown on the site plan with the appropriate setbacks noted.

- (e) Minimum lot size. All uses permitted under this subdivision must have a minimum lot size of ten acres.
- (f) Security. All entrances to mining activity areas must be restricted from public access during working hours and locked at all other times.
- (g) Reclamation Standards. Mining operations will be subject to the reclamation standards set forth in section 12-119.
- (h) Transportation impacts. Mine operations will be subject to the transportation mitigation standards set forth in section 12-116. This section requires the mine operator to be fully responsible for maintaining, repairing or replacing the accesses to the mine within the limits of the site related improvements as defined in section 12-116(c)(3).
- (i) Fire protection. The mining operation must be designed to provide adequate fire protection, transportation facilities, wastewater treatment and water supply. The owner or operator, at its sole cost, will be responsible for providing these services and facilities in the event of a deficiency.
- (j) Maximum depth. The Board of County Commissioners will establish maximum excavation depths and mining activity depth after reviewing the findings and recommendations of the South Florida Water Management District and County staff, as applicable. The permitted depth may not exceed the depth permitted by the South Florida Water Management District or County staff, as applicable and may not penetrate through impervious soil or other confining layer that presently prohibits intermingling of two or more aquifers.
- (k) Certificate to dig; historic management plan. When applicable, an archaeological/historic resources certificate to dig must be obtained from the County and submitted as part of the application. Florida Master Site File forms for historical or archaeological resources, facade or other historic or scenic easements related to the subject property or reports prepared by a professional archaeologist as may be required by chapter 22 must be submitted to the Director.
- (l) Open Space. For purposes of chapter 12 only, open space requirements applicable to the mine will be deemed satisfied if the mine site maintains the buffers, indigenous area, setbacks, and wildlife habitat areas required under this chapter or as otherwise provided in the approved MEPA resolution. The lake (or mine footprint) is considered the impacted area and is not included as a means of meeting open space requirements otherwise contemplated by the underlying zoning approvals.
- (m) Indigenous Preservation and Replanting. Mines must provide 25% of the project site as indigenous preservation or as on-site indigenous replanting if the property does not contain existing indigenous plant communities. Created marsh wetland littoral zone areas may be counted towards the on-site indigenous preservation requirements.
On-site indigenous replanting plans approved by the County must include a minimum of four native tree and four native shrub species. Native trees must be installed at a minimum of 100' on center per acre and native shrubs must be installed at a minimum of 50' on center per acre. 50 percent of the native trees must be 3' tall and the balance of the trees may be 1' tall. Native shrubs must be installed at 1 gallon container size. No more than 25% of one species can be utilized. Indigenous replanting areas must have 80% survivability for a period of five years and be maintained in perpetuity. The indigenous preserve and replanting areas must be designed to provide interconnectivity to adjacent preserves and conservation lands with a particular emphasis on the incorporation of existing and historic flowways. An indigenous management plan must be submitted to address the long term maintenance of the on-site preservation/conservation easement areas.
The created marsh wetland littoral zone, indigenous preserves, replanted indigenous areas, preserved and restored flowways, buffers, and open space used to meet County requirements must be maintained in perpetuity even with a change in land use.
- (n) Invasive Exotic Removal. An invasive exotic removal plan must be adopted as part of the MEPA approval that is acceptable to environmental sciences. The removal may be phased with long term maintenance continuing in perpetuity. The invasive exotics to be removed must be consistent with section 10-420(h).
- (o) Buffers. Buffers are required in accordance with the following standards.
 - (1) The following buffers must be provided when the mine property abuts the listed use or zoning district, whichever is most restrictive:
 - a. Right-of-way:
 - 1. Minimum 50' width, maintained at natural grade;
 - 2. Every 100' of the right-of-way buffer must consist of:
 - Ten 10' trees with 2" caliper and 4' spread
 - Ten 5' trees with 1" caliper and 2' spread
 - 100 native shrubs 24" in height
 - 3. 50% of the required trees must be native pines; 30% must be large native canopy trees (e.g. live oaks); and 20% native palms or appropriate native wetland vegetation.

- b. Residential:
 - 1. Minimum 150' width, maintained at natural grade;
 - 2. Every 100' of the residential buffer must consist of:
 - Fifteen 10' trees with 2" caliper and 4' spread
 - Ten 5' trees with 1" caliper and 2' spread
 - 150 native shrubs 24" in height
 - 3. 50% of the required trees must be native pines; 30% must be large native canopy trees (e.g. live oaks); and 20% native palms or appropriate native wetland vegetation.
 - c. Agricultural:
 - Minimum 50' width, maintained at natural grade.
 - d. Conservation Lands:
 - 1. Minimum 100' width, maintained at natural grade;
 - 2. Every 100' of the conservation lands buffer must consist of:
 - Ten 10' trees with 2" caliper and 4' spread
 - Ten 5' trees with 1" caliper and 2' spread
 - 100 native shrubs 24" in height
 - 3. Seeded with native herbaceous plants.
- (2) Standards applicable to all Buffers.
- a. Vegetation must be allowed to grow to natural height and form. Trimming is limited to health and safety maintenance pruning (i.e. shrubs, trees, and palms may not be hedged or formally shaped).
 - b. Buffer plantings must occur at grade, unless otherwise conditioned within the MEPD resolution.
 - c. Existing native vegetation may be used to meet the buffer requirements.
 - d. The County may grant a request to use smaller plant material, as long as the equivalent overall height is achieved per linear foot.
 - e. Buffer plants may not be installed in a straight line. Plantings must be installed in a random fashion throughout the width of the buffer to mimic a natural system.
 - f. The Director has the discretion to require a more restrictive buffer when deemed necessary for compatibility in accord with the following:
 - 1. If a berm is deemed necessary by the County, it must be located at the distance closest to the mine within the buffer. Berms may not exceed 3:1 slope and must be limited to a maximum height of 8 feet.
 - 2. If any portion of the buffer plantings is to occur on the berm, a specific condition must be included in the MEPD resolution or MDO approval.
 - g. Buffers must be installed prior to issuance of a MOP (via final MDO certificate of compliance) and prior to the excavation of materials for hauling off-site.
 - h. Created marsh wetland littoral zone areas, on-site indigenous preserve areas and wildlife habitat areas may be counted towards the buffer area requirements.
- (p) Wildlife habitat. In order to provide interconnectivity of wildlife habitat areas, including Florida panther and Florida black bear habitat, and to allow these large mammals to move locally within their range, projects located within any USFWS Florida panther protection zone must be designed to allow movement of Florida panther and Florida black bear through indigenous preserves or appropriately planted buffer and open space areas. If existing adjacent uses are not suitable for Florida panther or Florida black bear, then a deviation from this requirement may be requested during the MEPD application process.
- (1) Local wildlife habitat areas must be a minimum 300' wide, designed to allow mammals to traverse the project property, and connect to adjacent preserves or conservation lands that are existing or anticipated to occur in the future.
 - (2) Prior to the issuance of a MOP, the 300' wide area must be planted with a continuous native shrub hedge (33 shrubs per 100 linear feet; minimum 3-gallon container size) along the perimeter of the habitat area and a minimum of 20 native trees per 100 linear foot clustered (minimum 10 trees per cluster; minimum 7-gallon container size) within the habitat area to provide cover. Existing native vegetation may be used to meet the planting requirement.
 - (3) The wildlife habitat plantings may count toward any buffer, general tree, or indigenous replanting requirement if they meet the minimum standards for buffers, general trees, or indigenous replanting.
 - (4) Preferred vegetation includes, but is not limited to:
 - Trees: live oak (*Quercus virginiana*), laurel oak (*Quercus laurifolia*), south Florida slash pine (*Pinus elliottii* var. *densa*), cypress (*Taxodium distichum*; *Taxodium ascendens*)
 - Shrubs: wax myrtle (*Myrica cerifera*), cocoplum (*Chrysobalanus icaco*), saw palmetto (*Serenoa repens*), Florida privet (*Forestiera segregata*).
 - (5) Created marsh wetland littoral zone areas, on-site indigenous preserve areas and buffer areas may be counted towards the wildlife habitat area requirements.

- (q) Truck and tire wash. The use of a truck and tire wash system is mandatory for all projects. The truck and tire wash must:
 - (1) Be installed on the property with a minimum setback of 150 feet from the project boundary;
 - (2) Be located on the paved access connection at least 100 feet from the interior terminus of the paved access connection; and
 - (3) Provide water quality treatment and recycling for the truck and tire wash water.
- (r) Truck staging. Truck staging within limits of either public or private roads external to the mine site is prohibited. The mine is required to provide adequate on-site stacking space to accommodate staging of mine trucks arriving at the site prior to the opening of the mine for active hauling operation.
- (s) Best management practices. Contractors, sub-contractors, laborers, material men, and their employees using, handling, storing, or producing regulated substances must use the applicable best management practices generally accepted in the industry.
- (t) Pollution prevention plan. A Pollution Prevention Plan must be approved by the County and kept on the mine site. The plan must address potential sources of contamination and provide Best Management Practices (BMPs) to avoid on-site and off-site surface water and groundwater contamination. The plan must include an inspection program to ensure the proper operation of the implemented BMPs and contaminant spill containment and disposal procedures.
- (u) Deviations and variances. A deviation or variance from the design standards may be granted only through the MEPCD approval process. [12-113]

Traffic Impact Statement (TIS). A traffic impact statement is required for all mine related applications and approvals, including MEPCDs, MOPs and MOP renewals.

- (1) Prior to preparing the TIS, a meeting with County staff is required to discuss the procedure and study assumptions, including but not limited to, the scope and limits of the TIS, the data requirements, traffic projections (including the traffic projections from permitted mines on the affected road corridor not yet in operation), traffic growth factors, the basis of trip distribution assumptions, the truck factors to be used and the analysis software.
- (2) The TIS must be prepared using the mine's peak traffic operating hours, the AM and PM, and the two highest on-street peak hours to establish which hours have the highest directional traffic impact on the adjacent road system and adjacent signalized intersections. Full analysis of two or more separate peak hours may be required as determined by the Department of Transportation Director through conducting a review of the traffic data. The nearest signalized intersections in each direction or those intersections within one mile of the mine's entrance/exit onto the road system, whichever is greater must be analyzed using approved traffic operations analysis methods and procedures.
- (3) The TIS must address, at minimum, the following criteria.
 - a. Projected yearly volume and the total amount of excavated material to be removed from the site.
 - b. Projected number of peak hour and annual average daily truck trips.
 - c. Ownership, condition and maintenance plans for access routes from the actual excavation to the nearest county-maintained roads.
 - d. Projected distribution of truck trips on the county and state road network. [12-116(a)]

Traffic Impact Mitigation Plan (TIMP). A Traffic Impact mitigation plan must be submitted addressing the impacts recognized by the TIS and the following criteria.

Site related improvements.

- (1) Turn lanes. To protect public safety and welfare, left turn and right turn deceleration and storage lanes must be installed at the mine entrance on all collector and arterial roads, whether public or private. Acceleration lanes are required unless the data and analysis clearly demonstrate that the turn lane is not warranted and will not be necessary to protect public safety and welfare.
A full turn lane and an acceleration lane analysis must be prepared, using truck factors from the latest USDOT study measuring loaded width to horsepower ratio. The appropriate truck factors must be used to establish the length of deceleration and acceleration lanes. The storage lane length must be based upon the truck length plus the applicable headway distance for trucks. Turn lane pavement design must be determined in accord with the FDOT Flexible Pavement Design Manual (latest edition).
- (2) Permanent Count stations. The mine operator will be required to construct paved channelized access from a minimum of 200 feet inside the mine property boundary up to the public road in order to provide for a properly improved surface to safely accommodate all entering and existing traffic. No alternative unpaved access will be permitted.
The mine operator must install a permanent count station to monitor daily vehicular trips. The mine operator must also provide the County with a warranty for repairs, major maintenance and replacement of the count station facilities due to frequent failure, age, vandalism, accident, incidents and acts of God. The warranty is intended to provide assurance that the County will obtain the benefit of a continuous fully operational permanent count station and vehicle classifier in accordance with the County's current specifications for permanent count stations and traffic sensors. The Department of Transportation will monitor the count station and receive count and

classification data over a phone line connection provided by the mine. The mine operation must pay the annual operational and maintenance fees invoiced by Lee County within 30 days of receipt of the invoice. The fees charged will be established in the Lee County Administrative Code. The annual fee must be sufficient to cover the monthly and annual costs associated with the permanent count station.

- (3) The mining operation must provide paved access connections to the County's road network. Paved access connections must:
 - a. Satisfy the minimum street construction standards (Category "A" standards as set forth in section 10-296) for industrial development specified in this code.
 - b. Be constructed to a minimum depth of 300 feet on the mine property.

Transportation impact mitigation.

- (1) The mine operator, at no cost to Lee County, will contract for the services of law enforcement personnel to provide continuous (i.e. during the hours trucks are hauling off-site) monitoring of truck traffic entering and exiting the mine. Mine operators may coordinate enforcement efforts with other mines in the area to comply with this requirement. The monitoring performed must include but is not limited to the following:
 - a. Truck operating speeds and general driving behavior.
 - b. Retention of loads within the trucks. (Off-site dumping on public or private rights-of-way external to the mine is prohibited.)
 - c. Proper installation and maintenance of load covers.
 - d. Effectiveness of internal truck and tire wash facilities to provide adequate dust and mud control.
 - e. Proper load covers to prevent "sandblasting" and other effects to vehicular traffic.
- (2) The mine operator must develop and enforce a truck hauling operation plan that includes, but is not limited to, the following:
 - a. Development of a bilingual driver education manual (Truck Hauling Operation Practice Manual) regarding mine policies and procedures to be provided in written form to each driver.
 - b. Conduct an annual driver education workshop for the purpose of reinforcing the policies and procedures contained in the Truck Hauling Operation Practice Manual defined in section 12-116(c)(2)a.
 - c. Develop a set of enforcement policies to include the termination of access to the mine by independent or contract truck operators for violation of the mine's policies and procedures.
 - d. Provide standards regarding truck and tire cleanliness for loaded trucks exiting the mine.
 - e. Provide that loaded trucks use appropriate covers to protect the motoring public from "sandblasting" or other impacts to off-site vehicular traffic or property.
- (3) The mine operator is fully responsible for maintaining, repairing or replacing the access within the limits of the off-site specific improvements (i.e. site-related improvement areas) in accordance with County standards in the event a County inspection finds deterioration, unsafe conditions, or that the improvement is failing or has reached the end of its useful life. The "off-site specific improvements" include, but are not limited to, the pavement surface, the subgrade base and the pavement markings, including the limerock, any black-base and other base and stabilized material within the limits of the site access.
- (4) The County is considering the adoption of a user fee intended to provide funds to repair and maintain roadways and related facilities used and degraded by heavy mining truck traffic. The mine operator will be required to provide certain information to establish the fee amount.

Monitoring and inspections.

- (1) Annual site access pavement inspections. The Department of Transportation will conduct an annual inspection of the site access pavement areas. This inspection will consist of a site visit to assess the general condition of the site access and turn lanes, and photographing of the pavement condition. The costs associated with this inspection will be the responsibility of the mine. If the Department of Transportation Traffic Engineer determines that immediate correction or pavement repairs are required, notice will be provided to the mine operator regarding the repairs needed. The mine operator must provide a written response to the notice, within five business days after receipt, detailing the repairs to be made and indicate a date certain for their completion. Failure to provide the written response or complete the necessary repairs constitutes a violation of this article and will be subject to the process and sanctions set forth in section 12-123.
The mine operator, as a condition of the MOP approval, may choose to retain an independent engineer to perform and provide a signed and sealed, detailed annual inspection of the site access and turn lanes for annual submittal to Lee County. Upon receipt, the report will be reviewed and verified by County staff; and, any pavement problems will be brought to the mine operator's attention.
- (2) Annual turning movement monitoring. The mine operator must provide the County with manual turning movement counts taken at the mine entrance. The annual turning movement counts must be conducted by an independent traffic consultant that must coordinate directly with and receive direction from Lee County Department of Transportation with regard to scheduling and requirements for the count. The dates and time of manual counts may not be announced by the independent traffic consultant to the mine operator or owner in advance of the count dates. The mine operator may not take any action to reduce traffic or reduce mining operations due to the commencement of the counts. The mine operator may not take action that would reduce truck traffic without prior notification to the County and the independent traffic consultant. [12-116(b), (c), & (d)]

Narrative Describing the Proposed Mine Operation. A description of the excavation operation, including a description of methods to be employed in removing extracted materials from the ground and from the premises. If blasting is to be used, the type of blasting material as well as the frequency and hours of blasting contemplated (see also below). [12-110(a)(11)]

If blasting is proposed to excavate lakes or other site elements, the applicant must provide information and data with the application showing the location of the proposed blasting and demonstrating what measures will be implemented to ameliorate the potential negative impacts. This information must include soil borings that demonstrate the necessity for blasting, drawings showing the location of proposed blasting, and other information deemed necessary by the director to allow full and complete analysis of compatibility issues associated with the proposed blasting activity. {34-202(b)(6)}

Proposed Accessory Mine Uses. A description of the proposed accessory mine uses such as rock crushing, concrete/asphalt batch plants, cement plant etc. This description also must identify where the activities will occur and the type of building/structure that will encompass the activity. [12-110(a)(12)]

Physical Plant Facilities. The specific location and description of all physical plant facilities or other facilities for the operation, including but not limited to, proposed fueling, vehicle servicing and truck and tire washing facilities. [12-110(a)(12)]

Hours of Operation.

- a. The proposed hours for office operations and business transactions and the hours that trucks will enter and leave the site with excavated materials. No blasting, excavation or trucking operations may be conducted on Sunday or Federal holidays.
- b. The proposed hours for excavation operations (i.e. dragline operations and blasting activities) and rock crushing operations. [12-110(a)(14)]

Hazardous Materials Emergency Plan. A hazardous materials management plan must be submitted to address potential ground and surface water contamination that may result from the proposed mining operation. The plan must comply with the requirements in LCLDC chapter 14 for storage, handling and disposal of all regulated materials and waste. [12-110(a)(16)]

Test Boring Data. Data from test borings conducted on each proposed excavation site at intervals determined by the Division of Natural Resources during the pre-application meeting. Soil borings taken within the footprint of each proposed mine cell or area must be provided to the Division of Natural Resources. Information submitted must include:

- 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;
- 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). [12-110(a)(18)]

Federal and State Permits/Applications. A complete copy of the permit applications and correspondence meeting the requirements set forth in LCLDC section 12-114 (see below) must be provided. [12-110(a)(19)] State and Federal Permits. A complete copy of the permit applications submitted to South Florida Water Management District, Department of Environmental Protection, Florida Fish and Wildlife Commission, and Army Corps of Engineers necessary to support or achieve approval of the mine activity must be included in the MEPD application. Copies of correspondence to and from the state and federal agencies must also be submitted to the County contemporaneously so that the County will be fully apprised of the activity with respect to these permits.

A copy of the Environmental Resource Permit (ERP) is required prior to issuance of the MDO.

Copies of required state and federal permits, other than the ERP, must be submitted to the County prior to issuance of a county permit covering areas required to obtain state or federal approval to allow mining activity.

Lee County may impose conditions more restrictive than state and federal permit requirements if deemed necessary to afford consistency with the Lee Plan or compatibility with surrounding uses. [12-114]

Fire Protection Plan. Where the development falls outside of a fire district, the applicant must submit proof, in writing, that it has provided for fire protection as approved by the County fire official. [12-110(a)20]

Environmental Assessment Report. The report must be a thorough evaluation of natural resources with a particular emphasis on the protection or improvement of surface and groundwater quantity and quality. An environmental assessment report must be submitted that includes a scientifically based evaluation of the following:

- a. Existing and historic Florida Land Use and Cover and Classification System mapping (FLUCCS Levels 4 and 3, respectively) hydric soils map, wetland boundary delineation and general locations of existing native trees on recent aerial photos.
- b. Preservation and restoration of natural resources, including but not limited to wetlands, natural existing and historic flowway corridors, sloughs, creeks, ponds and lakes, and native plant communities and native trees.
- c. A protected species survey meeting the requirements set forth in section 10-471 et seq.
- d. Submittals meeting the requirements applicable to groundwater, surface water, water quality and water quantity as set forth in section 12-117.
- e. Environmental and water resource impacts due to stock piling of material.
- f. Fire and safety.
- g. Noise, odor, visual impacts.
- h. Air quality emissions.
- i. Methods for sewage and solid waste disposal.
- j. Stormwater Pollution Plan in accord with section 14-477.
- k. State verified wetland jurisdictional lines. [12-110(a)(21)]

Reclamation Plan. A proposed reclamation plan meeting the requirements set forth in section 12-119 (see below) must be submitted. [12-110(a)(22)]

Reclamation requirements.

- (a) Reclamation plan. The excavated lake must be designed to ensure appropriate native wetland areas will be created as a littoral shelf to provide long term water quality benefits; a source of natural organics for the lake; and wildlife habitat. Additionally, the final shoreline configuration outside of the littoral zone created wetland areas must be designed to prevent shoreline erosion. The overall reclamation plan must provide long term plans to sustain or improve the baseline water quality as well as sustain healthy fish and wildlife populations. Plans and other appropriate documents accurately depicting the plan of reclamation, consistent with the standards detailed in section 12-119(b) are required. The reclamation plan must be consistent with the mining plan and include:
 - (1) Typical section indicating side slopes, the depth of excavation and proposed seasonal water levels.
 - (2) Sufficient cross-sections, notes, and details to illustrate compliance with the minimum reclamation plan standards listed in Section 12-119(o).
 - (3) Proposed elevations, depth of topsoil and other soil amendments and final grading plan.
 - (4) A schedule for the commencement and phasing of reclamation, and the planting plan for the littoral zone created wetland areas and any indigenous replanting including the species, quantities, and size upon planting. The reclamation must begin no later than 30 calendar days after completion of mining as identified in the mining plan in compliance with section 12-110(a)(15). Reclamation must be completed within 6 months or when mining in a mining cell or area is completed in accord with the MOP.
 - (5) A detailed analysis of the estimated cost for the reclamation program for each increment of the mining plan. The analysis must include breakdowns for the cost of grading, resloping of the lake banks, topsoil, grass stabilization, littoral zone creation, plant installation, monitoring, exotic and nuisance plant species maintenance and any other work required to complete the reclamation of the area.
 - (6) The created wetland littoral shelf must be designed and incorporated into the mine excavation. The mine lake bank cannot be back filled to create the wetland littoral shelf, but must be designed into the lake excavation.
 - (7) Bank slope. After excavation is complete and upon reclamation of the site, the banks of the excavations outside of the required marsh creation area must be sloped at a ratio not greater than 6 horizontal to 1 vertical from the top of the finished grade to a water depth of four feet below the dry season depth. Deviation or variance from the slope requirement is prohibited.
- (b) Reclamation Standards. Mining operations will be subject to the following reclamation standards to ensure long term plans to sustain or improve the baseline water quality as well as sustain fish and wildlife. The Board of County Commissioners may modify these standards as a condition of approval when in the public interest, or where they determine a particular requirement unnecessary due to unusual circumstances. These conditions are not intended to conflict with the wetland permitting requirements of the U.S. Army Corps of Engineers, Florida Department of Environmental Protection or South Florida Water Management District.

- (1) All disturbed areas of the mine site including the top of lake banks must be stabilized with native plants, sod or grass seeding at completion of mining or completion of a separate mining cell or area.
- (2) Reclamation must be completed along the perimeter of the excavation and within the excavated lake. A minimum area equivalent to 25 percent of the post construction lake (mine footprint) surface area must have a littoral zone composed of created wetlands to improve water quality and create wildlife habitat. These created wetlands must be a minimum of 50 feet wide and meandering up to 100 feet in width for an expansive wetland littoral zone.
- (3) The entire created wetland littoral zone must be planted with native herbaceous wetland plants (3' on center). In addition, 10 percent of the created wetland littoral zone must consist of native wetland shrubs (10' on center) and native wetland trees (25' on center).
- (4) Created littoral zone native wetland plants must meet or exceed the following standards: Herbaceous plants bare root; shrubs 12" in height; and, trees 3' in height.
No more than 25% of one plant species can be utilized within the created littoral wetland zone. At least six native species must be installed as part of the created littoral wetland zone.
- (5) The created wetland littoral zone must be designed with an appropriate slope to provide a littoral shelf that reaches a depth of not less than -3.0 from control elevation or seasonal high water level.
- (6) 80 percent survival of herbaceous wetland plants, trees and shrubs must be met within five years of planting and maintained in perpetuity. The created littoral shelf must be maintained free of exotic or nuisance plant species in perpetuity.
- (7) The mine reclamation required should be designed to compliment post mine uses. The created wetlands may be used as wetland impact mitigation required by federal, state or water management district permits.
- (8) The created wetland littoral zone areas must be protected from impacts during and after mining. If the agricultural use of livestock is the intended post mine use, adequate fencing must be installed to protect the created littoral zone from livestock damage.
- (9) If appropriate, organic soils (muck) must be excavated from impacted wetlands on the site and placed in the created littoral zone wetland areas. The existing 'A' and 'B' soil horizons must be utilized to ensure successful wetland creation. The 'A' horizon must be stored in a manner that prevents the soil from oxidizing. The 'B' horizon may be stockpiled. The 'B' horizon will be placed over a base of sand with the 'A' horizon placed over the 'B' horizon during the reclamation process.
- (10) The reclamation design must include varying depths within the created wetland littoral zone to provide foraging "pockets" for woodstorks and other wading birds as water levels recede.
- (11) All spoil piles and stockpiles of material must be removed from the site or incorporated into the reclamation plan when the excavation is completed.
- (12) A recorded Conservation Easement dedicated to the County and any other appropriate government organization for all indigenous preserves, indigenous replanting areas, preserved or restored flowways, buffers, wildlife habitat areas, and the created marsh wetland littoral shelf zone may be required as part of the reclamation.
- (13) Monitoring reports for the littoral plantings for each mining cell or area in the mining plan must be submitted annually starting with the completion of contouring and continuing through the installation of the littoral plants (Time Zero Report) for at least five years. [12-119]

Wildlife Habitat. A submittal meeting the wildlife habitat design standards set forth in section 12-113(p) (see below) must be provided. [12-110(a)(23)]

Wildlife habitat. In order to provide interconnectivity of wildlife habitat areas, including Florida panther and Florida black bear habitat, and to allow these large mammals to move locally within their range, projects located within any USFWS Florida panther protection zone must be designed to allow movement of Florida panther and Florida black bear through indigenous preserves or appropriately planted buffer and open space areas. If existing adjacent uses are not suitable for Florida panther or Florida black bear, then a deviation from this requirement may be requested during the MEPD application process.

- (1) Local wildlife habitat areas must be a minimum 300' wide, designed to allow mammals to traverse the project property, and connect to adjacent preserves or conservation lands that are existing or anticipated to occur in the future.
- (2) Prior to the issuance of a MOP, the 300' wide area must be planted with a continuous native shrub hedge (33 shrubs per 100 linear feet; minimum 3-gallon container size) along the perimeter of the habitat area and a minimum of 20 native trees per 100 linear foot clustered (minimum 10 trees per cluster; minimum 7-gallon container size) within the habitat area to provide cover. Existing native vegetation may be used to meet the planting requirement.
- (3) The wildlife habitat plantings may count toward any buffer, general tree, or indigenous replanting requirement if they meet the minimum standards for buffers, general trees, or indigenous replanting.
- (4) Preferred vegetation includes, but is not limited to:
Trees: live oak (*Quercus virginiana*), laurel oak (*Quercus laurifolia*), south Florida slash pine (*Pinus elliottii* var. *densa*), cypress (*Taxodium distichum*; *Taxodium ascendens*)

Shrubs: wax myrtle (*Myrica cerifera*), cocoplum (*Chrysobalanus icaco*), saw palmetto (*Serenoa repens*), Florida privet (*Forestiera segregata*).

- (5) Created marsh wetland littoral zone areas, on-site indigenous preserve areas and buffer areas may be counted towards the wildlife habitat area requirements. [12-113(p)]

Post Mining Plan/Future Uses. A proposed plan or statement regarding the applicant's proposed use of the property subsequent to the conclusion of the mine operation and the completion of all reclamation. This plan must provide detail regarding the criteria and issues set forth in LCLDC section 12-122 (see below). [12-110(a)(24)]

Post mining use of land. Post mining plan/Future uses. Due to the increased vulnerability of groundwater contamination from overlying land uses in mining areas, stringent and diligently applied measures are required to protect groundwater quality. Urban and other land uses that include land management practices such as fertilization, stormwater management, chemical application, and irrigation may be prohibited or restricted to protect groundwater from contamination.

As part of the MEPD application, the applicant may submit a conceptual plan of post mining uses that considers the unique aspects of mined areas, including but not limited to, open pits with steep walls, littoral zone created wetlands, preservation areas, wildlife habitat and the interplay between proposed future uses, including associated impacts on the environment. The conceptual post mining plan will not impede the review and approval process for mining activities.

Given the longevity of mine operations and the economic benefit realized over the life of the mine, post mining uses may be appropriately limited to address public health, safety and welfare concerns. Subsequent to use of the property for mine operations, a rezoning request may be filed and considered by the County in accord with the provisions of chapter 34. However, a property owner does not have a vested right to achieve post mine density and intensity otherwise attributable to land that has not been the subject of mine activity. [12-122]

Schedule of Uses. A schedule of uses keyed to the master concept plan as well as a summary for the entire property including the following information:

- a. The types of uses proposed for the entire site. For projects with residential uses, the summary must include the types of proposed dwelling units;
- b. The number of units (gross square feet for commercial/industrial uses, number of units for residential or motel/hotel uses, beds for institutional types of uses, etc.) for each proposed use.
- c. The proposed percentage of open space for the entire site. [34-373(a)(8)]

Water Quality and Quantity Submittals/Issues.

- (a) Application submittal information and standards.
 - (1) Watershed. Delineation of the watershed basin, as defined in the preapplication meeting or MEPD resolution (if a renewal request), overlaid on the most recent aerial photograph available. Watershed topography showing one-foot elevation intervals based upon NAVD 1988 datum for all property within the watershed, as defined at a preapplication meeting, based on existing data (e.g. USGS Quad maps; etc.); or, if none exists, data collection may be required.
 - (2) Baseline analysis. A baseline surface and groundwater analysis designed and conducted to establish baseline data for surface and groundwater monitoring for the mining project area. The analysis must be designed to identify historical pre-development and existing surface and groundwater levels throughout the year, as well as the collection of surface and groundwater quality baseline data. Prior to commencing the baseline study, the proposed methodology must be submitted for review, comment, and approval by the County. The baseline study must be based upon sufficient temporal and spatial site specific data to ensure average or representative surface and groundwater levels are documented prior to application submittal. Data collected during an extreme dry or wet year will not be deemed appropriate representation of average water levels or quality. This analysis must include available data on ground and surface water levels within the watershed basin, as defined in the preapplication meeting, along with a cumulative impact analysis.
 - (3) Historic flows. Historic (prior to construction of ditches and other drainage structures), existing, and proposed drainage patterns including flowways on and within the vicinity of the site.
 - (4) Existing drainage structures or facilities. Location and purpose of existing ditches, canals, swales, and other stormwater structures or facilities including infall/outfall elevations, size of the structures and the invert/control elevations.
 - (5) Water budget. Water budget for the project site based upon sufficient site specific data to ensure accurate evaluations of the proposed project's effect on the water resources. In addition to the existing data from previous permits, studies, and reports, new data must be collected on-site through various means such as piezometers, staff gauges, rainfall gauges, aquifer performance tests, geological investigations and evaporation measurements. These new and existing hydrologic and hydraulic data will be used in the water budget analysis (generally in the form of a model simulation) to determine baseline and appropriate

projected normal wet and dry season water level elevations, flow directions within and adjacent to the proposed project area, and subsequently the proposed development impact on the water resources, water management and ecology.

- (6) Topography contours. Detailed topography of the site showing one-foot contours based upon NAVD 1988 datum, with sufficient data points to support these contours in accordance with professional land surveying and mapping standards; cross-sections (on an x – y axis) of all state and federal jurisdictional wetlands at sufficient intervals to represent the hydrologic flows and storage within the wetlands, extending a minimum of 200 feet into the adjacent uplands; and cross-sections of all ditches within and immediately adjacent to the site.
 - (7) Water levels. Current and historic seasonal high water levels based on natural benchmarks and aerial photography for each wetland to include a sufficient number of locations to determine accurate water levels.
 - (8) Public and private wells. Public and permitted private wells with GPS or surveyed locations of wells along with wellhead elevations within a one mile radius around the mine property boundary.
 - (9) Salt water intrusion. Potential of introduction or existence of salt water intrusion and any methods to prevent further degradation of surface and groundwaters.
 - (10) Observation wells. The South Florida Water Management District Water Use permit requirements must be satisfied.
 - (11) Water Use permit (WUP). A copy of the SFWMD WUP application is required to obtain MEPD approval. Thereafter, the applicant must provide contemporaneous copies of correspondence regarding the application to the County. A copy of the approved WUP must be submitted to the County prior approval of the MDO.
- (b) Water Quality Standards.
- (1) Monitoring.
 - a. The intent of the monitoring plan in and around the mine is to evaluate native natural background water quality and potential contaminants entering into the natural resources as a result of the mine operation.
 - b. As new mines are excavated, nested monitoring wells must be constructed around the perimeter of the mine to monitor contaminants entering from the mine and then going into the water table and possible deeper aquifers. At minimum, two pair of wells, one pair on the upstream and one on downstream of the groundwater flow, must be installed. The number of wells per mine will be determined by Natural Resources staff based upon the area and perimeter length of the mine site. Mining conducted within the water table aquifer may require a lower level of monitoring.
 - c. Water collected from monitoring wells must be analyzed by an environmental laboratory certified by the State of Florida. Sample collection and analytical protocols must meet be in accord with FAC ch 62-160. Reporting format of the water quality sample monitoring results must be in accordance with the standards established by the Lee County Environmental Laboratory. Surface and groundwater samples must be collected at the same time in order to provide a contemporaneous reading of the water quality.
 - d. Initial monitoring of surface water for mine sites with existing lakes:
 1. The following samples must be collected at the deepest location of the existing lake. Two samples must be collected: one sample at a half meter above the bottom of the lake, and the second sample at mid depth of the lake. A third sample must be collected one half meter below the surface at the lake's outfall or discharge point. If no outfall or discharge point exists, the third sample will be collected at one half meter below the surface at the deepest location. The samples must be tested for the primary and secondary drinking water standards excluding asbestos, dioxin, bacteria, disinfection byproducts and radionuclides. Additional parameters checked on the Table -1: Water Quality Monitoring Check List, as set forth in Appendix O, must be analyzed and reports must be provided.
 2. Additionally, a profile of field parameters (temperature, conductivity, pH and dissolved oxygen) must be collected and recorded in three foot increments at the deepest location of the lake at the time of sample collection in order to establish a water quality profile.
 - e. Initial monitoring of surface water for mine sites with drainage discharges:

Samples must be collected at the inflow and discharge points on the site. Water quality parameters listed on the Table -1: Water Quality Monitoring Check List must be analyzed and reports must be provided to the County staff.
 - f. Initial monitoring of groundwater quality:

Water samples collected from all groundwater monitoring wells must be analyzed for chloride, TDS (total dissolved solids), sulfate, pH, conductivity, iron, total hardness, and FL-PRO (Florida Petroleum Residual Organic, an environmental sample analysis method). Groundwater level elevation within monitor wells with reference to NAVD 1988 datum also must be submitted.
 - g. Subsequent monitoring plans of surface and groundwater quality beyond initial monitoring will be decided by the County staff after reviewing the results of initial monitoring. Initial monitoring not covered by any of the above scenarios will be determined by Natural Resources staff based on site-

specific conditions. After commencement of the mining operation, quarterly water quality and stage reports must be submitted to Natural Resources. Groundwater quality standards must not exceed natural background as identified in FAC ch. 62-520.

- h. All field activities must be conducted in accordance with FDEP's standard Operating Procedures for Field Activities, FDEP-SOP-00101, February 1, 2004 (or current revision). Analytical tests must be conducted by a Florida Department of Health National Environmental Laboratory Accreditation Conference (DOH NELAC) certified laboratory.
 - i. Construction activities may not result in an exceedance of natural background water quality defined in this article and as refined by preconstruction data.
- (c) Dewatering. If dewatering is proposed as part of a mining operation, the following information must be provided:
- (1) Detailed description of the dewatering method and procedure to be used to facilitate the excavation. This description must include a time line phasing, proposed depth and amount of water pumped. The submittal must explain assurances that will be provided, or activities that will be employed, to ensure there will be no adverse impacts to existing on-site or off-site wellfields, nearby properties, or wetlands adjacent to the excavation operation associated with withdrawals from the project.
 - (2) Estimated volumes of water to be extracted, impounded or diverted per hour and per day for the duration of the dewatering.
 - (3) A map specifically depicting the location of all dewatering pumps and withdrawal points.
 - (4) A plan/map showing the disposition of the dewatered effluent, whether on or off the development site. The map must depict the size and location of the proposed holding ponds or trenches as well as the calculations used to determine the size of the proposed holding ponds and trenches. A soils report must be included that documents the ability of the sub-surface soils to percolate the dewatered effluent. If an off-site location is proposed, then the application must include permission from each property owner whose property will be traversed or used to accomplish the dewatering as proposed. This permission/consent must be in writing, signed by the property owner and acknowledged before a notary. Consents signed by an agent of the property owner will not satisfy this requirement.
 - (5) Engineering estimates of the monthly water balance for the projected highest, lowest and average rainfall sequence for the operation life of the excavation. This estimate must account for all sources of water input to the water recirculation facilities and processing steps, and all water outputs and losses from the system. The submittal must also include a detailed explanation of the computation methods and assumptions used to derive the estimate.
 - (6) Engineering estimates demonstrating that the proposed dewatering will not detrimentally impact adjacent wetlands and water table aquifer must be submitted if the excavation will extend below the normal wet season groundwater elevation.
 - (7) A proposed groundwater level monitoring plan that specifies the location of all wells comprising the monitoring well network. The proposed water level monitoring plan and process must be sufficient to document changes to groundwater levels and groundwater flow directions on and off the subject project site that may result from the proposed dewatering activity.
 - (8) A copy of the SFWMD Water Use Permit (WUP) application for dewatering, including support documentation. [12-117]

Schedule of Deviations and Written Justification. A schedule of deviations and a written justification for each deviation requested as part of the Mine Plans. The location of each requested deviation must be located/shown on the Mine Plans. Deviation documentation and detail drawings including sample detail drawings must be provided illustrating how each deviation will operate to the benefit, or at least not to the detriment, of the public interest. [12-113(u); 34-373(a)(9); 34-412(a)]

Decision-Making Compliance. A narrative explanation as to how the proposed development complies with the guidelines for decision-making embodied in LCLDC Sections 12-108, 12-112, 34-83, and 34-145(d)(3).

GUIDELINES IN DECISION MAKING

Mine Excavation Planned Development (MEPD) approval.

The MEPD approval is issued by the Board of County Commissioners based upon the recommendations of the County staff and Lee County Hearing Examiner in accordance with sections 34-83 and 34-145(d). A hearing before the Board of County Commissioners will be scheduled after the applicant submits a MEPD application on the form specified by the County, achieves sufficiency for hearing before the Hearing Examiner, and obtains a recommendation from the Hearing Examiner to the Board for consideration at the end of a regular Board Zoning agenda day. The specific Board hearing date will be determined by County staff.

Unlike typical chapter 34 zoning approvals, the MEPD approval will encompass and be based upon zoning issues as well as technical information and detail traditionally reserved for review under chapter 10. The Board's decision with respect to the MEPD application will be set forth in a resolution, along with the findings and conclusions applicable to the approval or denial. A resolution approving the MEPD will include conditions applicable to the mine operation along with a detailed set of plans for site development and subsequent mine operation activity. [12-108(d)]

Sufficiency of Applications and Review.

Applications submitted with respect to zoning and development approval under this article will be reviewed by County staff within 30 business days after receipt; and, a letter advising the applicant of the status of the application will be provided. If insufficient, the letter will include a brief explanation as to why the application is not complete for review and request the necessary additional information. The applicant will have 60 days to submit a written response and the requested information. If the applicant requires more than 60 days to submit a response, the County may grant an additional 60 days to respond based upon the applicant's written request to the Director substantiating diligent pursuit of the response or resubmittal. If the applicant fails to submit a response or request additional time within the 60 day period, the County may deem the application withdrawn. This submittal and review process will be repeated until the application is found sufficient for hearing, if a rezoning request, or approval if a MDO/MOP request.

Once an application has been found sufficient for hearing through the rezoning process, any new information submitted by the applicant or changes made to the information reviewed by county staff in preparing its recommendation, may at the discretion of the Director, be grounds for the County staff to defer or continue the public hearing depending on the advertised status of the hearing. County staff may also revoke the finding of sufficiency and withdraw the case from Hearing Examiner consideration without regard to the status of the advertising. [12-108(h)]

Hearing Process.

The hearing process for approval of MEPD applications is as set forth in sections 34-83 and 34-145. This includes the requirements applicable to notice for hearings and criteria for review.

Findings-Hearing Examiner (MEPD)

In addition to the findings required to support a rezoning (see Section 34-145(d)(3) below), the Hearing Examiner must also consider and find that the applicant has proven entitlement to MEPD rezoning by demonstrating:

- (1) The mining activity will not create or cause adverse effects with respect to dust, noise, lighting and odor on existing agricultural, residential, conservation activities, or other nearby land uses.
- (2) The applicant has given special consideration to protection of surrounding private and publicly owned conservation and preservation lands.
- (3) Approval of the request will maintain the identified wet and dry season water level elevations and hydro periods necessary to restore and sustain water resources and adjacent wetland hydrology on and off-site during and upon completion of the mining operations.
- (4) The site is designed to avoid adverse effects to existing agricultural, residential or conservation activities in the surrounding area.
- (5) The site is designed to avoid adverse effects from dust, noise, lighting, or odor on surrounding land uses and natural resources.
- (6) The site is designed to mimic or restore the natural system predisturbed water budget to the maximum extent practicable.
- (7) Approval of the request will serve to preserve, restore and enhance natural flowways deemed important for local or regional water resource management.
- (8) Approval of the request preserves indigenous areas that are occupied wildlife habitat to the maximum extent possible.
- (9) Approval provides interconnection to off-site preserve areas and conservation lands via indigenous preservation areas, flowway preservation or restoration, and planted buffer areas.
- (10) Compliance with the traffic mitigation standards set forth in section 12-116.
- (11) Compliance with the reclamation standards set forth in section 12-119. [12-112]

Findings-Hearing Examiner (Rezoning).

Before preparing his recommendation to the Board of County Commissioners on a rezoning, the Hearing Examiner must find that:

- a. The applicant has proved entitlement to the rezoning or special exception by demonstrating compliance with the Lee Plan, this land development code, and any other applicable code or regulation; and
- b. The request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request; and.
- c. The request, including the use of TDR or affordable housing bonus density units, is consistent with the densities, intensities and general uses set forth in the Lee Plan; and
- d. The request is compatible with existing or planned uses in the surrounding area; and

- e. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
- f. Where applicable, the request will not adversely affect environmentally critical areas and natural resources.
- g. In the case of a planned development rezoning, the decision of the hearing examiner must also be supported by the formal findings required by sections 34-377(a)(2) and (4).
- h. Where the change proposed is within a future urban area category, the hearing examiner must also find that urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use. [34-145(d)(3)]

Functions-Hearing Examiner.

Regarding zoning matters, the Hearing Examiner has the following prescribed duties and responsibilities:

- a. Prepare recommendations to the Board of County Commissioners for changes relating to the boundaries of the various zoning districts or to the regulations applicable to those districts.
- b. Make recommendations to the Board of County Commissioners on Mining Excavation Planned Development applications. [34-145(1)]

Considerations-Hearing Examiner.

In reaching his recommendation, the Hearing Examiner must consider the following criteria, as well as any other issues that are pertinent and reasonable:

Staff recommendations, the testimony of the appellant and testimony of the general public must also be considered.

Cases under this LCLDC Section will be handled as a de novo proceeding and all parties will be entitled to present evidence and testimony as to any law or fact supporting their position in the case. [34-145(c)(2)]

In preparing his recommendation on any matter, the Hearing Examiner must consider the criteria set forth in LCLDC Section 12-113 (see above) as well as the following, if applicable:

- a. Whether there exists an error or ambiguity which must be corrected;
- b. Whether urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve a proposed land use change, when reviewing a proposed change to a future urban area category; and
- c. Whether a proposed change is intended to rectify errors on the official zoning map.
- d. Whether the level of access and traffic flow (i.e. median openings, turning movements etc.) is sufficient to support the proposed development intensity. [34-145(d)(2)]

Function-Board of County Commissioners.

The Board of County Commissioners must hold public hearings (see LCLDC Sections 34-231 through 34-236) for the Mining Excavation Planned Development.

Considerations-Board of County Commissioners.

In rendering its decision, the Board of County Commissioners must consider the following:

- a. The considerations set forth in LCLDC Section 34-145(c)(2) and 12-112 for the Mining Excavation Planned Development.
- b. The substantive recommendation of the Hearing Examiner when applicable. [34-83(b)(2)]

Findings-Board of County Commissioners.

Before granting any MEPD rezoning, the Board of County Commissioners must find that:

- a. The mining activity will not create or cause adverse effects with respect to dust, noise, lighting and odor on existing agricultural, residential, conservation activities, or other nearby land uses.
- b. The applicant has given special consideration to protection of surrounding private and publicly owned conservation and preservation lands.
- c. Approval of the request will maintain the identified wet and dry season water level elevations and hydro periods necessary to restore and sustain water resources and adjacent wetland hydrology on and off-site during and upon completion of the mining operations.
- d. The site is designed to avoid adverse effects to existing agricultural, residential or conservation activities in the surrounding area.
- e. The site is designed to avoid adverse effects from dust, noise, lighting, or odor on surrounding land uses and natural resources.
- f. The site is designed to mimic or restore the natural system predisturbed water budget to the maximum extent practicable.
- g. Approval of the request will serve to preserve, restore and enhance natural flowways deemed important for local or regional water resource management.
- h. Approval of the request preserves indigenous areas that are occupied wildlife habitat to the maximum extent possible.

- i. Approval provides interconnection to off-site preserve areas and conservation lands via indigenous preservation areas, flowway preservation or restoration, and planted buffer areas.
- j. Compliance with the traffic mitigation standards set forth in section 12-116.
- k. Compliance with the reclamation standards set forth in section 12-119. [12-112]

Decisions and authority-Board of County Commissioners.

- a. In exercising its authority, the Board of County Commissioners:
 - 1. Must consider the recommendation of the Hearing Examiner, but may, in conformity with the provisions of this chapter, reverse, affirm or modify the recommendation of the Hearing Examiner, or remand the recommendation to afford due process;
 - 2. May not approve a rezoning other than the rezoning published in the newspaper unless the change is more restrictive than the proposed rezoning published;
 - 3. Has the authority to attach such conditions and requirements to any approval of a request within their purview, deemed necessary for the protection of the health, safety, comfort, convenience or welfare of the general public. These conditions and requirements must be reasonably related to the action requested.
- b. The decision of the Board of County Commissioners on any matter listed in LCLDC Section 34-83(b) is final. If there is a tie vote, the matter considered will be continued until the next regularly scheduled meeting for decisions on zoning matters by the Board of County Commissioners, unless a majority of the members present and voting agree by motion, before the next agenda item is called, to take some other action. Such other action may be moved or seconded by any member, regardless of his vote on any earlier motion.
- c. Any denial by the Board of County Commissioners is denial with prejudice unless otherwise specified by the Board of County Commissioners (see LCLDC Section 34-211). [34-83(b)(4)]

Judicial Review. Judicial review of final decisions of the Board of County Commissioners with respect to rezonings are to the circuit court in accordance with LCLDC Section 34-85. [34-83(b)(4)c.]