

**AGENDA ITEM REPORT**

**DATE:** June 7, 2022  
**DEPARTMENT:** County Attorney  
**REQUESTER:** Michael Jacob  
**TITLE:** Conduct 1st Public Hearing to Approve Corkscrew Grove Development Agreement

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**I. MOTION REQUESTED**

Conduct the first of two public hearings pursuant to Settlement Agreement entered into on April 19, 2022 for consideration and approval of a development agreement between Lee County & Corkscrew Grove Limited Partnership.

**II. ITEM SUMMARY**

Consider executing a development agreement between Lee County and Corkscrew Grove Limited Partnership, owners and developers of the owners of the Corkscrew Grove Project. Direct to second public hearing on Wednesday, June 22, 2022, at 9:30 a.m., or as soon thereafter as may be heard.

**III. BACKGROUND AND IMPLICATIONS OF ACTION**A) Board Action and Other History.B) Policy Issues

Conduct the first of two public hearings required under Settlement Agreement entered into on April 19, 2022 in order to approve a development agreement between Lee County and Corkscrew Grove Limited Partnership, owners and developers of the Corkscrew Grove Project.

C) BoCC GoalsD) Analysis

On March 30, 2011 a rezoning application for 4,202 acres of the subject property (Case No. DCI2011-00007) was filed, seeking approval as an Industrial Planned Development ("IPD") to allow lime rock mining. The application for the IPD was processed and denied by Lee County on November 6, 2019, as reflected in Resolution No. Z-18-008. Corkscrew Grove Limited Partnership ("CGLP") timely presented a claim for monetary damages pursuant to Section 70.001, Fla. Stat., the "Bert Harris Act."

On April 19, 2022, the Board of County Commissioners held an Executive Session concerning the potential settlement of the litigation filed by Corkscrew Grove. Following the Executive Session, the Board unanimously approved the Stipulation of Settlement.

Pursuant to Chapter 70, Fla. Stat., after a Bert Harris claim is filed, the County is authorized to provide the Plaintiff various settlement options. The types of settlement options that may be provided include:

1. An adjustment of land development or permit standards or other provisions controlling the development or use of land.
2. Increases or modifications in the density, intensity, or use of areas of development.
3. The transfer of developmental rights.
4. Land swaps or exchanges.
5. Mitigation, including payments in lieu of onsite mitigation.
6. Location on the least sensitive portion of the property.
7. Conditioning the amount of development or use permitted.
8. A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.
9. Issuance of the development order, a variance, special exception, or other extraordinary relief.
10. Purchase of the real property, or an interest therein, by an appropriate governmental entity or payment of compensation.

Upon acceptance of the Settlement, the County is authorized to "implement the settlement offer by appropriate development agreement; by issuing a variance, special exception, or other extraordinary relief; or by other appropriate method...." See § 70.01(4)(c), Fla. Stat.

Pursuant to the Stipulation of Settlement, the Board has directed a Hearing before the Hearing Examiner and two public hearings before the Board of County Commissioners to consider approval of a Development Agreement in accordance with §70.01(4)(c), Fla. Stat.

In furtherance of the Settlement Agreement, the County and CGLP have prepared a draft development agreement that implements the Settlement Offer. The proposed Development Agreement will provide for:

- Maximum density of 1.5 dwelling units per gross acre (Approx. 6500 Acres);
- Maximum 700,000 square feet of commercial, limited as follows:

- A maximum of 150,000 square feet directly fronting and/or abutting Corkscrew Road (unused Commercial square footage may be moved internally),
- 50,000 square feet internal to the development (may include unused Commercial Square footage from off Corkscrew Road), and
- 500,000 square feet directly fronting, or abutting State Road 82,
- Proposed uses for the Project will include public infrastructure, wireless communication facilities, essential services, public and/or private schools without limitation of square footage, and such other uses typical of similarly sized mixed use developments within Lee County,
- The Project will provide a minimum of 61% Open Space (approximately 4072 acres),
- The Project will provide a minimum of 3,274 acres of onsite restoration consisting of wetland conservation easements and flowway easements,

Certain provisions of the development agreement are not consistent with the Land Development Code and the Lee Plan. Typically, these inconsistencies would require issuance of deviations as part of a planned development and Lee Plan amendments. In anticipation of this, and in furtherance of the requirements of § 70.01(4)(d), Fla. Stat., the Stipulation of Settlement provides for a hearing process that evaluates the proposed development to ensure that the development agreement and proposed conditions “protect the public interest served by the regulations” that the project are not consistent with and to ensure adequate public participation in the process as would typically occur in the public hearings for a Lee Plan amendment.

On May 17, 2022, a Hearing was held before the Lee County Hearing Examiner to determine whether Development Agreement protects the public interest. As part of the proposed development, the development agreement includes proposed conditions and obligations that will adequately protect the public interest served by the Contravened Regulations. The Hearing Examiner’s report is attached.

Lee County Staff and the County Attorney’s Office recommends the Board direct the proposed Development Agreement to the final adoption hearing on June 22, 2022 at 9:30 am in Board chambers.

E) Options

**IV. FINANCIAL INFORMATION**

A)	Current year dollar amount of item:	No funding required.
B)	Is this item approved in the current budget?	N/A
C)	Is this a revenue or expense item?	N/A
D)	Is this Discretionary or Mandatory?	N/A
E)	Will this item impact future budgets? If yes, please include reasons in III(D) above.	No
F)	Fund: Program: Project: Account Strings:	
G)	Fund Type?	N/A
H)	Comments:	

**V. RECOMMENDATION**

Approve

**VI. TIMING/IMPLEMENTATION**

**VII. FOLLOW UP**

**ATTACHMENTS:**

Description	Upload Date	Type
<a href="#">HEX Recommendation</a>	5/26/2022	Cover Memo
<a href="#">Corkscrew Grove - Joint Memorandum 1</a>	5/31/2022	Backup Material
<a href="#">Corkscrew Grove - Joint Memorandum 2</a>	5/31/2022	Backup Material
<a href="#">Corkscrew Grove - Joint Memorandum 3</a>	5/31/2022	Backup Material
<a href="#">Corkscrew Grove - Joint Memorandum 4</a>	5/31/2022	Backup Material
<a href="#">Corkscrew Grove - Joint Memorandum 5</a>	5/31/2022	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
County Attorney	Wesch, Richard Wm.	Approved	5/25/2022 - 9:49 AM
Budget Services	Henkel, Anne	Approved	5/26/2022 - 2:11 PM
Budget Services	Winton, Peter	Approved	5/26/2022 - 2:24 PM

County Attorney  
County Manager

Jacob, Michael D.  
Mora, Marc

Approved  
Approved

5/27/2022 - 9:13 AM  
5/31/2022 - 11:20 AM