

Lee County, Florida
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT

CASE NUMBER: DCI2021-00009

CASE NAME: CEMEX ALICO QUARRY EXTENSION PHASE 3D

TYPE OF CASE: MINE EXCAVATION PLANNED DEVELOPMENT

HEARING EXAMINER DATE: DECEMBER 14, 2022

SUFFICIENCY DATE: AUGUST 30, 2022

REQUEST:

The applicant seeks to extend an existing approved construction materials mine into an area herein called "Phase 3D," totaling approximately 205± acres and encompassing lands previously approved for "general excavation" in 1986 (ZAB-86-82) and 1993 (Special Exception #93-01-28-EXC-02). The request will rezone the entirety of the existing approved mining operation, approximately 1,193 acres, including all previous phases north of Alico Road, which are currently zoned both Agricultural (AG-2) with a special exception for excavation and Mine Excavation Planned Development (MEPD), to MEPD, while identifying and memorializing existing, vested approvals.

The subject property is located at 12501 Alico Road, Southeast Lee County Planning Community, Lee County, FL. (District #2). The legal description for this property can be found in Attachment "C."

SUMMARY:

Staff recommends **APPROVAL** of the applicant's request, with the Conditions found in Attachment "D." The applicant seeks a total of twenty two (22) deviations, eight (8) of which are specific to the Phase 3D excavation. Staff recommends one (1) additional deviation. The remainder of the deviations are requested to memorialize past approvals for Phases 3A, 3B, and 3C. The requested deviations are shown graphically on Sheet HM-14 of the MEPD Plans (Attachment "E") and are grouped according to the code requirement from which the deviation is sought and the phase of development.

HISTORY OF PARCEL, CHARACTER OF THE AREA:

The subject property is located north of Alico Road, east of I-75, in Sections 5, 6, 7, and 8, Township 46 South, Range 26 East. The property is approximately 1,190 acres and includes four STRAP numbers.

Table 1 - STRAP Numbers & Ownership per the Lee County Property Appraiser

STRAP No.	Owner of Record	Acreage
05-46-26-00-00002.0000	FGCU Foundation, Inc.	213.72

05-46-26-00-00001.0000	CEMEX Construction Materials Florida	578.83
06-46-26-00-00001.0000	CEMEX Construction Materials Florida	368.71
07-46-26-00-00001.0060	CEMEX Construction Materials Florida	28.77

To the west of the subject property is the FGCU Innovation Hub which is partially developed with commercial and industrial uses and is zoned Mixed Use Planned Development (MPD). Wildblue and property owned by Lee County is across Alico Road to the south. and consists of conservation area south as part of the Wildblue (MPD) development and a storm water management lake owned by Lee County (AG-2). The nearest homes in Wildblue are located approximately 0.66 miles to the south of existing excavation in Phase 3B. The Phase 3D excavation being requested as part of this zoning action is north of Phase 3B and over one mile away from existing residential development. Property to the north of the subject development is part of the Air Operations Planned Development (AOPD) for the Southwest Florida International Airport. To the east is vacant land that is agriculturally-zoned and owned by Florida Rock and Lee County. The Lee County Utilities Green Meadows Water Plant is adjacent to the site at the northeast corner. A portion of the excavation area within Phase 3D is within wellfield protection zone 2 (see sheet HM10 of the MEPD Plans (Attachment “E”)). The table below summarizes the future land use designations, zoning, and existing land uses of the surrounding properties:

Table 2 – Abutting Zoning, Future and Existing Land Use

	Future Land Use	Zoning	Existing Land Use
North	Airport & Wetlands	AOPD	Access road for Lee County Utilities; vacant/future development portions of Southwest Florida International Airport
East	DR/GR* & Wetlands; Conservation Lands: Upland & Wetland	AG-2	Vacant/undeveloped land; southernmost portion of Wild Turkey Strand Preserve
South	DR/GR* & Wetlands	AG-2; MPD (Wildblue)	Stormwater management lake; conservation easement
West	Tradeport	MPD (FGCU Innovation Hub)	Cleared, partially developed land

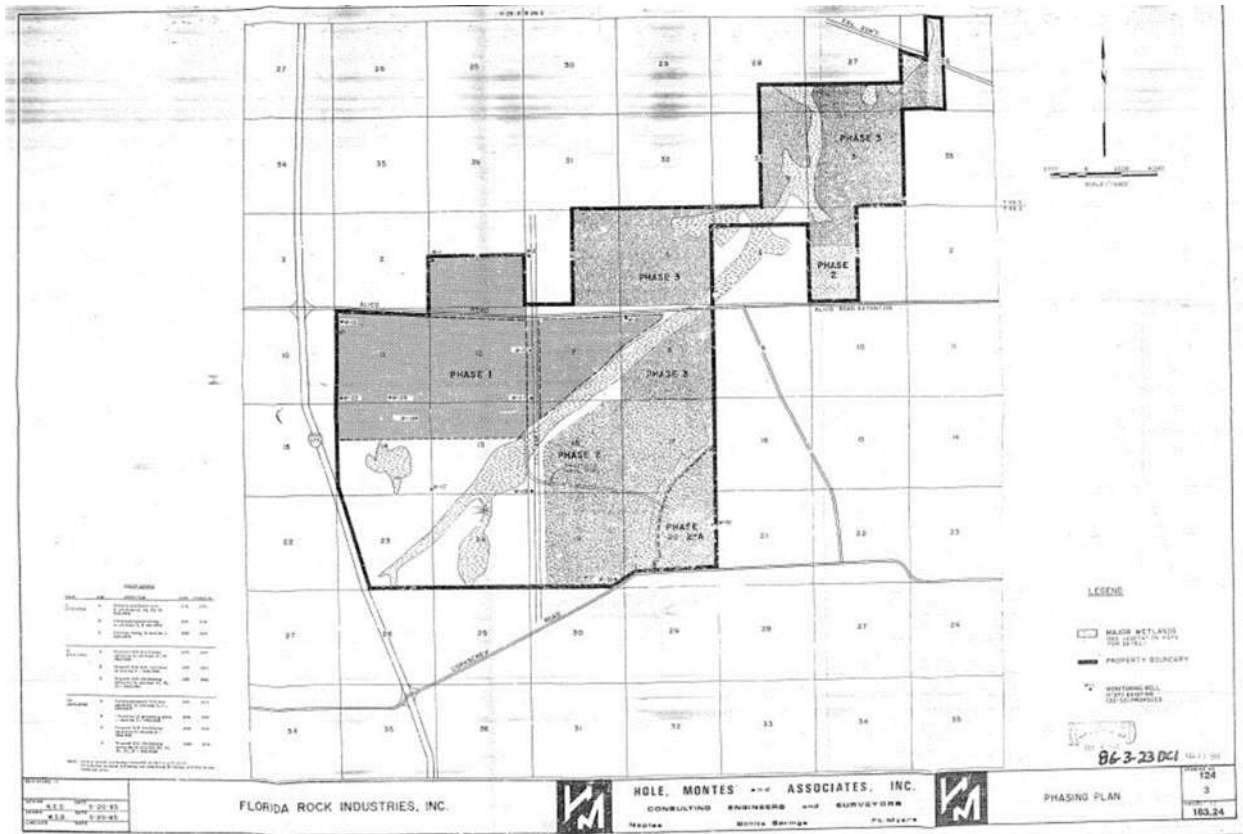
* DR/GR – Density Reduction/Groundwater Resource

The Phase 3D lands are predominately made up of natural wetlands, pine flatwoods, exotic wetland hardwoods, unimproved pasture, and Brazilian pepper. The unimproved pasture lands were historically used for farming from approximately 1970 until 2006. For additional information see Attachment “K” the Environmental Staff Report and associated attachments.

Resource excavation has been continuously carried out in the general area since the early 1970s. Initial approvals occurred as early as 1977 and were formalized in 1986 when Resolution Number **ZAB-86-62** (Attachment “F”) granted approval for “general excavation” over approximately 10,622 acres both north and south of Alico Road as shown in Figure 1 below. Condition (k) of the approval stated that “approval shall be an indication to future land owners surrounding the subject property that future mining activities may be located in these areas.” Additionally, condition (k) of the approval further required “full review

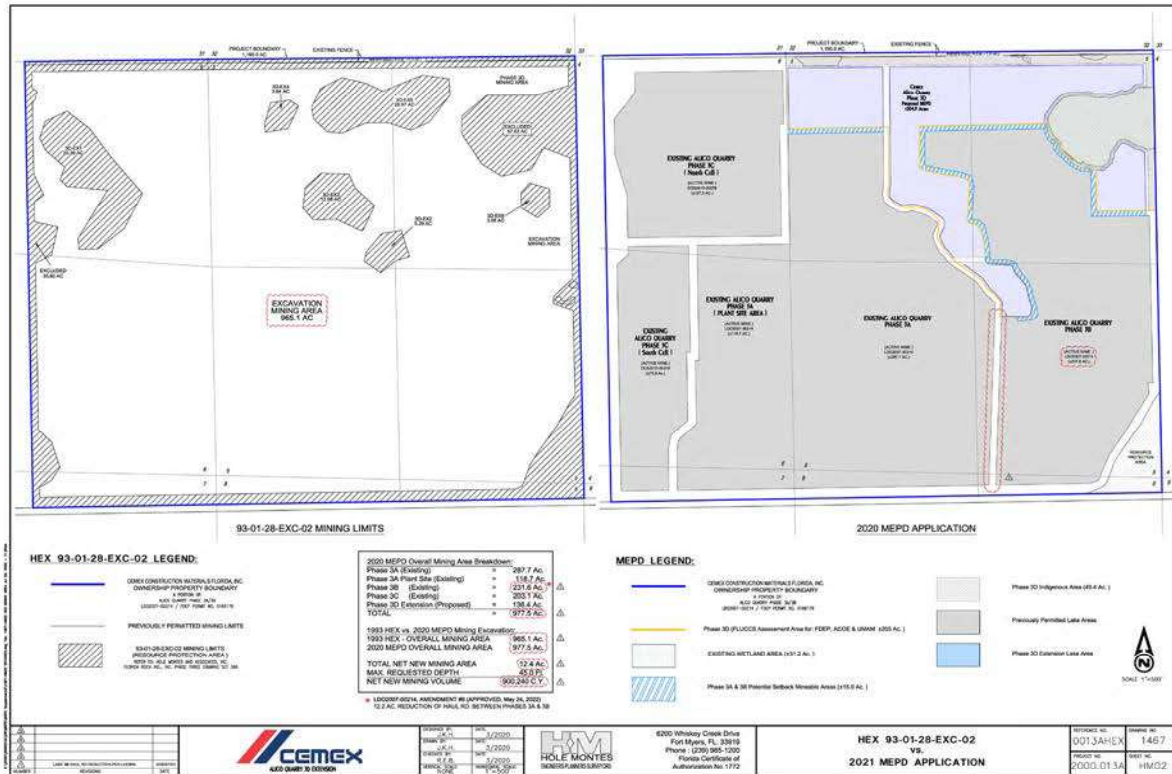
and approval or denial of any proposed plans for mining activities through whichever procedures are in effect at that time” in order to mine the area north of Alico Road.

Figure 1 – ZAB-86-62 areas approved for ‘general excavation’



A Hearing Examiner Decision was rendered for case number **93-01-28-EXC-02** (Attachment “F”) on March 17, 1993. The special exception requested a general excavation permit, several variances, and special permits to accommodate the proposed mining operations north of Alico Road. The mining operations include the property that is subject to this rezoning request. The Hearing Examiner Decision granted approval with conditions. All conditions in Resolution ZAB-86-62 were carried over “except as specifically amended as part of this action.” As part of the approval, specific wetland areas were excluded from the approval. These areas are summarized in the Hearing Examiner’s Decision, sheet HM02 of Attachment “E”, MEPD Plans, and Figure 2 below. The subject zoning action seeks to include those wetlands as part of the mine excavation operations.

Figure 2 – Sheet HM02, MEPD PLANS



Portions of the site lie within Archaeological Sensitivity Zone 2 and an approved Certificate to Dig will be required prior to development order approval. A large majority of the site is within Airport Noise Zone “D.”

The subject site has been approved for the existing mining excavation and mine accessory uses. Phases 3A and 3B are considered “existing mine operations” as defined in Land Development Code (LDC) Sec. 12-121(a) and are operating under valid approvals granted in Resolution ZAB-86-62, HEX Decision 93-01-28-Exc-02, and LDO2007-00214, which expires on July 15, 2034. Phases 3A and 3B are zoned AG-2. Phase 3C was approved in Resolution Number Z-13-026, DOS2015-00078 (expires on July 11, 2023), MOP2017-00007 (expires December 15, 2027) and MOP2018-00001 (expires March 14, 2028).

The various approvals are summarized in the table below:

Phase	Zoning	Effective Zoning Approval	Effective Development Order	MOP
3A	AG-2	ZAB-86-62	LDO2007-00214	N/A
		HEX Decision 93-01-28-Exc-02	96-05-098.08L **	

Phase	Zoning	Effective Zoning Approval	Effective Development Order	MOP
3B	AG-2	ZAB-86-62 HEX Decision 93-01-28-EXC-02	LDO2007-00214	N/A
3C	MEPD	Z-13-026	DOS2015-00078	MOP2017-00007 MOP2018-00001
3D (this phase)	AG-2	ZAB-86-62 HEX Decision 93-01-28-EXC-02	LDO2007-00214*	N/A

* LDO2007-00214 includes the Phase 3D plan area. Mining excavation was not authorized in the Phase 3D area as part of this development order.

** Active development order for the plant site

ANALYSIS

The applicant has provided a request statement that describes nature of the application (Attachment “G”). In the request statement, the applicant notes the intent of the project is to rezone approximately 1,190 acres from Agricultural (AG-2) and Mine Excavation Planned Development (MEPD) to Mine Excavation Planned Development (MEPD). The request includes mine excavation activities in the area known as Phase 3D. There have been no mine excavation activities approved in Phase 3D to date. The request also seeks to bring the entire operation into a single MEPD and memorialize existing and vested approvals.

Site Maps, Mining Plan, Engineering Plans, and Landscape Plans:

The applicant has provided Mine Development Order Plans, MEPD Plans, and Landscape Plans, attached as Attachment “E” in accordance with the requirements of LDC Sec. 12-110 and Sec. 12-111. These plans show the mine footprint, estimated life of the mine, yardage of material to be removed, estimated time necessary to excavate the material and haul it offsite, conservation areas, buffers, physical plant facilities, accessory mine operations, depth of the excavation, excavation slopes, storm water management, and reclamation consistent with Chapter 12 requirements and the requested deviations.

Planned Development Rezoning:

Section 34-612(2) of the LDC describes the intent of the utilization of the Planned Development zoning district. The purpose of planned developments is to further implement the goals, objectives, and policies of the Lee Plan, while providing some degree of flexibility in the planning and design of proposed developments. Section 34-931(j) of the LDC speaks directly to the Mine Excavation Planned Development District. The purpose of this district is to accommodate and regulate mine activities and to provide specific land development regulations that allow resource extraction consistent with the provisions set forth in LDC Chapter 12.

LDC Section 12-108(d) references the MEPD approval process in accordance with LDC Sections 34-85 and 34-145(d). LDC Section 34-145(d) establishes the review criteria for all rezoning requests. Before recommending approval of a rezoning request, the Hearing Examiner must find the request:

- a) Complies with the Lee Plan;
- b) Meets the Land Development Code and other applicable County regulations or qualifies for deviations;
- c) Is compatible with existing and planned uses in the surrounding area;
- d) Will provide access sufficient to support the proposed development intensity;
- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban Area category.

For Planned Development rezoning requests, the Hearing Examiner must also find:

- a) The proposed use or mix of uses is appropriate at the proposed location;
- b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and
- c) That each requested deviation:
 - 1) Enhances the achievement of the objectives of the planned development; and
 - 2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

Development Pattern Considerations:

The subject parcel is located in the Southeast Lee County Planning Community (**Goal 33**) as defined in the Lee Plan. The Southeast Lee County Planning Community includes natural resource extraction operations as allowable land uses. Additionally, it seeks to enhance and protect natural resources such as regional flow-ways and natural habitat corridors. The MEPD plans and MDO plans provided by the applicant does preserve the major flow-way areas on the eastern side (Wetland 200) of the site and provides wildlife corridors consistent with the Lee Plan. The applicant has provided a Hydrogeologic Report that is included as Attachment-1 of the Natural Resources Staff Report, which includes integrated surface and groundwater models to assess potential adverse impacts. This report will be discussed in detail below. Staff finds that the applicant's request is in harmony with the Lee Plan vision for this area.

Policy 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) future land use category include upland areas that provide substantial recharge to aquifer and are suitable for wellfield development. The Lee Plan requires new land uses that require rezoning or a development order to maintain surface and groundwater levels at historic levels and to demonstrate this requirement by utilizing hydrologic

modeling. This model must show no adverse impact will occur to properties located upstream, downstream or adjacent to the site. Permitted land uses in the DR/GR future land use category include resource extraction. Sheet HM15 of the MEPD Plans submitted by the applicant show approximately 805 acres in the DR/GR future land use category, of which approximately 61 acres are in the excavation activities proposed in Phase 3D. The applicant provided groundwater and surface water level data collected at and near site since 2010 which does not show adverse impacts from the existing mining operation. Additionally, groundwater models were provided to demonstrate the historical seasonal high water table and water table elevations at steady state conditions after completion of the mining in the applicant's Hydrogeologic Report (Attachment-1, NR Staff Report). The report concluded that "the extension of the mining area will not significantly impact seasonal high water table elevations nor adjacent wetland and wellfield protection area water levels." Staff finds that the proposed request is consistent with **Policy 1.4.5** of the Lee County Comprehensive Plan.

Objective 1.5: The lands designated Wetlands on the Future Land Use Map are lands designated as such in accordance with Sec. 373.019(27), Fla. Stat. through the use of the unified state delineation methodology. All development in Wetlands must be consistent with **Goal 124** of the Lee County Comprehensive Plan. The environmental assessment submitted by the applicant identified approximately 95.6 acres of jurisdictional wetlands in Phase 3D, of which 64.94 acres will be permanently impacted. The Future Land Use Map, for the area encompassing the rezoning boundary (Phases 3A, 3B, 3C, and 3D) identifies approximately 387.6 acres in the Wetlands future land use designation. However, the current Future Land Use Map reflects the Wetlands designation in Phase 3C development areas that were previously approved for impacts (130.22 acres) in Resolution Number Z-13-026. The applicant proposes to mitigate the impacts off-site in areas that will better serve regional preservation goals and has submitted to amend the existing FDEP and ACOE permits. Staff finds that the proposed request is consistent with **Objective 1.5** and **Goal 124** of the Lee County Comprehensive Plan.

Policy 1.6.1: The Airport Noise Zones (Map 1-E) cover areas subject to varying levels of airport-related noise. The subject property is within Airport Noise Zone D. Noise Zone D allows existing and new construction and land uses as would otherwise be permitted by the Land Development Code. These zones require formal notification as provided for the Land Development Code in Section 34-1104(b). The required condition is included in the proposed conditions attached as Attachment "D." Staff finds that the proposed request is consistent with **Policy 1.6.1** of the Lee County Comprehensive Plan.

Objectives 2.1 and 2.2: Development location and timing encourages new growth in future urban areas where adequate facilities exist or are assured and where compact and contiguous development patterns can be created. The proposed project is a continuation of existing mine excavation and material processing activities that began in 1986 with the approval of the special exception in ZAB-86-62. **Policy 2.1.2** states that new land uses will be permitted only if they are consistent with the Future Land Use Map and the goals, objectives, policies, and standards of this plan. The proposed mining excavation will occur in the DR/GR and Wetlands future land use categories. As discussed above, these future land use categories will allow the proposed use. **Policy 2.2.1** states that rezonings will be evaluated as to the

availability of the road network, central water and sewer lines, and public facilities and services as well as compatibility with surrounding land uses. The site has is currently operating as a limerock mine and has been in continuous operation since the approval granted in the Hearing Examiner's Decision 93-01-28-EXC-02. The addition of Phase 3D does not propose an increase in current production levels. The existing administrative and processing facility is currently connected to potable water and the property is outside of the service area for wastewater. A septic tank is currently utilized for the administrative offices. There will be no expansion of the administrative offices or processing facility in Phase 3D. Based on these reasons, Staff finds that the proposed request is consistent with **Objectives 2.1 and 2.2** of the Lee County Comprehensive Plan.

Objective 5.1: This objective requires all development approvals for residential, commercial and industrial land uses to be consistent with **Policies 5.1.1 through 5.1.10** and the general standards in **Goal 4. Policy 5.1.5** is applicable to the proposed development and seeks to protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. The proposed excavation in Phase 3D will not affect the character and integrity of the residential environment. Phase 3D is bordered on the north by the airport and the east by vacant undeveloped land and portions of Wild Turkey Strand. To the south and west it is bordered by existing resource excavation activities. Resource excavation has been continuously carried out in the general area since the early 1970s. Initial approvals occurred as early as 1977 and were formalized in 1986 when Resolution Number ZAB-86-62 (Attachment "F") granted approval for "general excavation" over approximately 10,622 acres both north and south of Alico Road as shown in Figure 1. Condition (k) of the approval stated that "approval shall be an indication to future land owners surrounding the subject property that future mining activities may be located in these areas." Based on the surrounding uses and historical uses of the property, Staff finds that the proposed request is consistent with **Objective 5.1**.

Goal 7: The purpose of **Goal 7** is to promote opportunities for well-planned industrial development at suitable locations within the County. The proposed rezoning does not seek to add any additional industrial uses and will utilize the previously approved processing facilities associated with the existing resource excavation activities. Staff finds that the proposed request is consistent with **Goal 7**.

Goal 10: Seeks to protect areas containing commercially valuable natural resources from incompatible urban development while ensuring natural resource extraction operations minimize or eliminate adverse effects on surrounding land uses and other natural resources. The property identified as Phase 3D was previously approved for "general excavation" in ZAB-86-62 (Attachment "F") and more specifically in the Hearing Examiner's Decision 93-01-28-EXC-02 (Attachment "F"). These approvals excluded certain wetlands areas as detailed in Figure 2 above. One of the purposes of this request is to include the previously excluded wetland areas and propose resource excavation activities in a portion of those areas. Soil borings conducted as far back as the 1970s confirmed the presence of high quality limerock that meets commercial and FDOT requirements. **Objective 10.1** requires natural resource extraction operations to minimize or eliminate adverse effects through efficient use of land, natural resources, and reclamation. The specific goal of the request is to maximize the footprint for the extraction of critical resources within

the existing operation. The property is located along the Alico Road corridor in a location of known limerock resources and the maximization of resource extraction will provide a significant benefit to Lee County and reduce the need to use additional lands for this purpose. Based on the hydrogeologic report, the top of the confining layer is at an elevation of approximately -20 feet NAVD. The mining depth will be conditioned to prevent any breach of the confining layer in accordance with **Policy 10.1.1**. The existing mining operation is currently marketing and selling the overburden material. This will continue with the expansion of Phase 3D and is consistent with **Policy 10.1.2**. Proposed indigenous preserve areas will provide wildlife habitat and connect to abutting natural systems and further minimize adverse effects to wildlife in accordance with **Policy 10.1.5**. **Objective 10.2** requires expanded natural resource extraction operations to be compatible with the environment and surrounding land uses through requirements for monitoring, reclamation, water supply planning, surface and groundwater management, wetland protection, and wildlife conservation. The applicant provided an environmental assessment (Attachment "B" and "C" – Environmental Staff Report) and a hydrogeologic report (Attachment-1, NR Staff Report). As discussed previously in this report, the hydrogeologic report concluded that "the extension of the mining area will not significantly impact seasonal high water table elevations nor adjacent wetland and wellfield protection area water levels." The environmental assessment proposes on-site wetland mitigation and an indigenous preserve area as well as wetland mitigation banking to offset proposed impacts to existing wetlands. Additionally, Wetland 200 (28.86 acres) will not be impacted. The proposed development will also provide wildlife habitat and connectivity to Wild Turkey Strand to the east. **Policy 10.2.1** requires natural resource extraction operations to provide a monitoring system to measure surface and groundwater levels and quality to assess any degradation of surface and groundwater resources. The existing operation has been conducting surface and groundwater monitoring on a semi-annual basis since 2010 with no changes to water quality in Phases 3A, 3B and 3C. This will continue through Phase 3D. Groundwater levels are monitored at 22 paired monitoring well locations around the perimeter of the site and six piezometers are located in environmentally sensitive areas as shown on sheet HM11 of the Supplemental Plan Set (Attachment "E"). The monitoring wells, staff gauges, rain gauges and piezometers will allow detection of any changes to groundwater levels. Surface water quality is monitored at two locations in the mine lakes with baseline data collected since 2010. Groundwater quality will be compared with the Maximum Contaminant Levels specified in Chapter 62-550, FAC, and lake nutrient data will be compared with EPA Ambient Water Quality Criteria Recommendations for Lakes and Reservoirs in Region XIII. As previously discussed, the applicant has provided an environmental assessment meeting the requirements detailed in **Policy 10.2.2**. The environmental assessment was reviewed by Environmental Staff and is summarized in the memo attached as Attachment "K". As part of the application documents, the applicant has provided detailed Mine Development Order plans (Attachment "E") and MEPD Plans (Attachment "E") that detail all proposed uses, open space, protection of surface and groundwater resources, wildlife, and native plant communities as required in **Policy 10.2.3**. All preserve areas as defined in **Policy 10.2.5** will be placed in a conservation easement. As part of this request, the applicant has provided a Phase 3D reclamation plan and post-reclamation master site plan on sheets 11 and 11A of the Mining Development Order Plans (Attachment "E"), which will further minimize adverse effects on the surrounding land uses and meets the requirements in **Policy 10.2.8**. Phases 3A, 3B, and 3C have

previously approved reclamation plans that will be implemented at the conclusion of mining activities. **Policy 10.2.9** requires a public information meeting meeting the requirements of **Policy 17.3.4**. This meeting was held on September 8, 2021, and the meeting summary and legal notice are attached as Attachment "I". No members of the public attended the meeting. Based on the above information Staff finds that the proposed request is consistent with **Goal 10**.

Objective 47.2: Development proposals for property located within the vicinity of existing or planned aviation facilities must be evaluated to ensure land use compatibility, to preclude hazards to aircraft operations, and to protect airport capacities and facilities. The applicant has requested the appropriate deviations from the Land Development Code to avoid creating a wildlife attractant and hazards that arise from wetlands or water bodies in accordance with the FAA requirements and **Policy 47.2.5**. The existing mining operation has been in existence since 1986 without adverse impact to the airport. The Lee County Port Authority (LCPA) has reviewed the proposed rezoning and has provided comments in their letter attached as Attachment "H." The only substantive comment provided by the LCPA provided was in reference to vibration caused by blasting operation. The letter states "While we do not anticipate any adverse impacts due to blasting operations associated with the applicant's proposed mining activities, LCPA requests that the applicant provide blasting operations data to LCPA, if requested." Blasting operations are regulated by the Office of the State Fire Marshal; however, Staff believes that the LCPA request is not regulatory in nature and is supported by **Policy 47.2.7**, which requires mining operations to demonstrate that there will be no adverse vibration, noise, air and water quality impacts on existing airport facilities. Staff has included the LCPA request in the recommended conditions (**Attachment "D"**). Staff finds that the proposed request is consistent with **Objective 47.2**.

Goals 60, 61, and 63: The proposed development has been reviewed by Environmental and Natural Resources Staff with regard to surface water management, land use planning on a watershed basis, protection of water resources, and potential groundwater impacts. Environmental and Natural Resources have provided supplementary reports that are attached as Attachment "K" and Attachment "L" respectively. The applicant has provided an environmental assessment and a hydrogeologic report which was reviewed by Staff and detailed in the discussion of **Goal 10** above. The proposed new mining area will be an extension of existing mining cells. The proposed additional mining will use the established wet season water table data. The design incorporates top of berm elevations so that runoff will be retained within the mining impoundments. This will eliminate any off site runoff, improve water quality and nutrient reduction and provide groundwater recharge. The surface water management system will be designed to comply with the Land Development Code, FAA AC 150/5200-33D, and Florida Department of Environmental Protection standards and requirements. The Green Meadows Water Treatment Plant is located on the northeast corner of the site. Sheet HM10 of the Supplemental Plan Set shows excavation activities within wellfield protection zone 2 and will be governed by the restrictions applicable. **Policy 63.1.2** requires the staff hydrogeologist to review and comment on all development applications near public utility potable water wellfields. The Natural Resources Staff Report enclosed as Attachment "L" does address this requirement and will be discussed in greater detail later in this document. The development proposal will restrict regulated substances within the extension area in quantities greater

than those listed in LDC Section 14-208. There will be no wastewater effluent disposal, liquid waste disposal or solid waste disposal within the extension area. Simulations to estimate impacts to the wellfield protection area were provided in the hydrogeological report and show no adverse impacts. Staff finds that the proposed request is consistent with **Goals 60, 61, and 63**.

Goal 123: Details the need to provide resource protection through the management of wetland and upland ecosystems and natural resources to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural resources. Specific resource protection measures such as a wildlife corridor, preservation of existing wetlands, indigenous preserves, water quality and sampling, and groundwater protection were discussed in detail in **Policy 1.4,5, Objective 1.5, and Goals 10, 60, 61, and 63** above. Environmental reports including a protected species report were submitted by the applicant. In that report, the site was inspected for protected species and upland and wetland indigenous habitat. A Species Protection Plan was included in the applicant's Environmental Assessment to ensure that the site is surveyed for protected species prior to clearing. Staff finds that the proposed request is consistent with **Goal 123**.

Goal 124: Details Objectives and Policies for development in wetlands that works with existing state and federal permitting processes, while protecting the fragile ecological characteristics of wetland systems. Wetland impacts have been avoided and minimized. Unavoidable impacts have been limited to resources of limited natural function. The expansion of the existing Alico Quarry into Phase 3D, adjacent to existing mining activity, utilizing the existing processing plant, concentrates mining activity within existing, impacted areas. Wetland 200, which is adjacent and contiguous with offsite wetlands within county-owned conservation lands, will be preserved. Impacted wetlands will be used for resource extraction, consistent with the permitted use on the immediately adjacent future land use category of DR/GR. Unavoidable impacts to wetlands will be fully compensated for through a comprehensive mitigation strategy involving preserved and restored wetlands coupled with the purchase of mitigation bank credits. **Policy 124.1.2** states that the County will not undertake an independent review at the development order stage of the impacts to wetland resulting from development in wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption. The applicant has provided initial submittals to amend the existing DEP and ACOE permits to reflect the proposed impacts of the Phase 3D expansion. Staff has proposed conditions in Attachment "D" requiring the applicant to provide any State or Federal permits authorizing wetland impacts. A natural upland pine flatwoods will be preserved and lands encroached by exotics will be restored. Phase 3D will include an Indigenous Preserve Mitigation Area totaling 49.4 acres. Staff finds that the proposed request is consistent with **Goal 124**.

Goals 125, 126 and 127: Require that water quality be maintained or improved for the protection of the environment and people of Lee County by maintaining high water quality, identifying, controlling and eliminating water pollution, no degradation of ground water quality, monitoring, wellfield protection and maintenance of the best possible air quality. The applicant has provided an environmental assessment, ground water monitoring wells, a hydrogeologic report, surface water monitoring locations, and has address pollutants within the wellfield protection zones. The applicant has also provided an updated

Hazardous Materials Emergency Plan (Attachment “N”) that includes best management practices to further protect against spills and protect from the environment and water resources from contamination. The existing mine activities as well as the proposed expansion in Phase 3D will operate under an existing FDEP Air Permit. Staff finds that the proposed request is consistent with **Goals 125, 126, and 127**.

Goal 158: Lee County will achieve and maintain a diversified and stable economy by providing a positive business climate that assures maximum employment opportunities while maintaining a high quality of life. The proposed expansion of Phase 3D is in harmony with the vision for the Southeast Lee County planning community. The existing mine has been in operation since prior to the adoption of the Lee Plan. The expansion of the mining operation is necessary to meet the demand for limerock aggregate to support development in southwest Florida and provide construction materials necessary for critical local and regional projects. The mining operation will provided economic benefits including jobs created at the mine and indirectly via projects that the mined materials support. Staff finds that the proposed request is consistent with **Goal 158**.

Natural Resources Considerations:

Natural Resources Staff has provided a Staff Report and Conditions (Attachment “L”) for the proposed expansion. In that report, Natural Resources Staff notes compliance with several Lee Plan requirements previously discussed above. The Staff Report notes that the applicant has provided water level data to demonstrate consistent water levels over of the existing mining operation. This includes groundwater level monitoring data at the subject site from 2010 to 2020. Additionally, the applicant has provided two groundwater model simulations based on the proposed expansion into Phase 3D. The groundwater modeling is contained in the Hydrogeologic Report in Attachment-1 of the Natural Resources Staff Report. The results of the modeling show that water table elevations at the northeast corner of Phase 3D will be approximately 0.5 feet lower than previous seasonal high ground water levels. This includes the area beneath Wetland 200 and the adjacent flow way to the east. The applicant has proposed a spreader swale system and a wetland monitoring program to maintain and monitor the hydration of the wetland. Staff agrees that the proposed spreader swale system and monitoring program will mitigate the drawdown predicted in the model simulations. At the conclusion of the mining operations, the model simulations show that the impact of mine lakes on the water table elevations is within the historical range of water levels in the area. The proposed perimeter berms for the Phase 3D expansion will be constructed to connect to existing berms approved in the previous phases. This will provide a complete perimeter berm at sufficient elevation to retain surface water runoff.

Surface and groundwater quality monitoring has been conducted on a semi-annual basis since 2010 with no changes to water quality during the mining operations in the previously permitted phases. The current Environmental Monitoring Plans will be required to be expanded to include the proposed mining operations in Phase 3D. This monitoring plan will be required to comply with LDC Section 12-117 as well as Appendix O – Chemical Constituent List.

As noted previously, Lee Plan Policy 63.1.2 requires the staff hydrogeologist to review and comment on all development applications near public utility potable water wellfields. The Green Meadows Water Treatment Plant is located on the northeast corner of the proposed Phase 3D expansion. Sheet HM-10 of the Supplemental Plan Set shows excavation within wellfield protection zone 2. In addition to the requirements in Lee Plan Policy 63.1.2, Lee Plan Policy 10.2.1 requires natural resource extraction operations to pay particular attention to potential travel times, change in flow, and changes in direction of flow in proximity to wellfields and residential wells. Subsequently, mining applications are strongly encouraged to include a minimum of three years baseline monitoring and assessments of the likely change in flow, timing of travel, and direction of surface and ground water systems in the impacted area. To address these requirements staff has recommended the following condition to comply with Lee Plan and Land Development Code requirements:

Prior to local development order approval for Phase 3D, the Environmental Monitoring Plan must be updated to reflect the requirements of LDC 12-117.

In summary, as conditioned, the Natural Resources Staff report concludes that the proposed request is consistent with the requirements of the Lee Plan and Land Development Code.

Environmental Considerations:

Environmental Staff has provided a Staff Report addressing the impacts of the Phase 3D expansion as well as addressing the previously approved phases of the mining operation. This report is enclosed as Attachment “K.”

LDC Section 12-133(l) requires the applicant to meet open space requirements through required buffers, indigenous area, setbacks, and wildlife habitat. Phases 3A, 3B, and 3C are currently being mined in accordance with previous approvals. The overall MEPD provides 223 acres of open space which includes indigenous areas, wetlands, uplands, landscape buffers and reclaimed areas internal to the site. The required open space is detailed in condition number 9 of the enclosed Recommended Conditions and Deviations (Attachment “D”).

Natural resource extraction operations are required to provide a minimum of 25 percent indigenous open space in accordance with LDC Section 12-113(m). The applicant has proposed Deviation 10-D to recognize previously approved onsite and off-site indigenous areas totaling 197.85 acres or 16.6 percent. Off-site Phases 3A through 3C were previously permitted through the County and State permits on private lands south of the subject property and are part of conservations areas within Wild Blue and Corkscrew Shores. Staff recommends approval of Deviation 10-D.

The site was inspected for protected species as well as upland and wetland indigenous habitat. Listed species observed on the project include the American alligator, Sandhill crane, and the Florida Panther. A Bonneted Bat survey was also conducted onsite. The Environmental Staff Report enclosed (Attachment “K”) details the location of the species found as well as proposed conditions 6, 7, and 8 that have been incorporated in the Recommended Conditions and Deviations (Attachment “D”).

The applicant is proposing to permanently impact 64.94 acres of FDEP jurisdictional wetlands and 1.76 acres of secondary impacts are part of the Phase 3D expansion. These impacts have also been identified as being contiguous with federally jurisdictional waters. The applicant has submitted to amend the existing FDEP and ACOE permits to include planned minimization and avoidance, partial mitigation for FDEP jurisdictional wetland impacts, panther habitat units (PHU), and indigenous preservation to comply with LDC Section 12-113. The restoration plan includes exotic removal and restoration plant materials proposed to be installed in the preserves to provide habitat for wildlife. Environmental Staff did have concerns during the review process regarding the hydroperiods being affected by the mining operation. Specifically, the drawdown associated with Wetland 200, as detailed in the natural resource considerations above and shown in the groundwater models provided by the applicant. The data provided shows that Wetland 200 will be hydrated during the wet season, however, there is an anticipated drop of 0.5 feet associated with the dry season. This impact will be minimized through the use of a spreader swale/recharge trench system and a wetland monitoring program to ensure that no negative impacts occur. These requirements are included in condition 11 of the Recommended Conditions and Deviations (Attachment "D").

The applicant has requested deviations to memorialize the previous buffers approved in Phases 3A, 3B, and 3C. Staff has no objection to the request. Environmental Staff has proposed condition 13 to require the applicant to demonstrate, prior to local development order approval, that the buffers are in substantial compliance with the Master Mining Plan.

LDC Section 12-113(p) requires a 300-foot-wide wildlife habitat corridor with planting providing connectivity to adjacent preserves or conservation lands. The applicant has requested a deviation (11-D) to allow the indigenous preserves and open space areas with a minimum 125-foot width and a maximum of 1,534 foot width to meet the intent of the wildlife habitat area. An alternate planting plan as shown on Sheet 10 of the Landscape Plans is also proposed. Staff finds that the request meets the intent of the code and recommends approval of the deviation request.

Upon completion of the mining operation, the applicant or its successor must reclaim the mining area. LDC Section 12-110 requires reclaimed shore to be a created wetland designed to sustain wildlife. However, the proposed mine is located within 10,000 feet of the SW Florida International Airport. FAA Advisory Circular 150/5200-33C contain design consideration for hazardous wildlife attractants on or near airports to mitigate wildlife and aircraft interactions to protect public safety. The applicant has requested several deviations to incorporate the recommendation contained in the circular.

Transportation Considerations:

The applicant requested and was approved for a waiver from the LDC requirement in Section 12-110(a)(7) to provide a Traffic Impact Statement. The approved waiver and justification is attached as Attachment "O." Infrastructure planning has provided a memo attached as Attachment "M." All excavated material will be processed at the existing material processing facility and there is no anticipated increase in trucking activity. There are no proposed modifications to the existing processing facility in Phase 3A as part of this

request. The applicant has requested three transportation related deviations which will be addressed in detail below.

Urban Services:

The subject property is serviced by San Carlos Park Fire Protection and Rescue District. San Carlos Park Fire Rescue Station 54 is located approximately 4 miles to the west. The subject property is in the Lee County Sheriff's South District and the nearest Sheriff's station is approximately 9.3 miles to the northwest of the subject property. The proposed development will have access to Lee County Utilities for water and uses an existing septic system for wastewater. The request, as conditioned, is consistent with Lee Plan Standards 4.1.1 and 4.1.2.

Deviation Requests:

The applicant has requested a total of twenty-two deviations and provided an analysis the requests (Attachment "G"). Deviations are listed by phase but deviations from the same Chapter 12 requirement are given the same number – for instance Deviation 1 refers to landscape buffers – 1-B refers to landscape buffers in Phase 3B, 1-C to landscape buffers in Phase 3C, etc. Staff provides the following analysis of the proposed deviations:

Deviation (1-A) seeks relief from Section 12-113 (o)(1)a., Buffers, Right-of-way, which requires a minimum 50-foot-wide landscape buffer maintained at natural grade. Every 100 feet of the buffer must contain: ten ten-foot trees with two-inch caliper and four-foot spread, ten 5-foot trees with one-inch caliper and two-foot spread, and 100 native shrubs 24 inches in height. 50 percent of the required trees must be native pines, and 20 percent native palms or appropriate native wetland vegetation, to recognize the existing, previously approved landscape buffer (Lee County D.O.#96-0509.808L) that consists of five trees per 100 linear feet, a double staggered hedge row, and a 12-foot berm adjacent to Alico Road in Phase 3A of the MEPD.

Staff recommends **APPROVAL** of the deviation.

Phase 3A was permitted prior to the Chapter 12 requirements. The buffer has been installed in accordance with previous approvals (#96-05-09.808L). The approval of this deviation will allow the existing buffer to remain.

Deviation (2-A/2-B) seeks relief from LDC Section 12-113 (o)(1), Buffers, which requires landscape buffers when the mine property abuts a right-of-way or conservation lands, to recognize the existing condition of no buffers in Phase 3A and 3B of the MEPD.

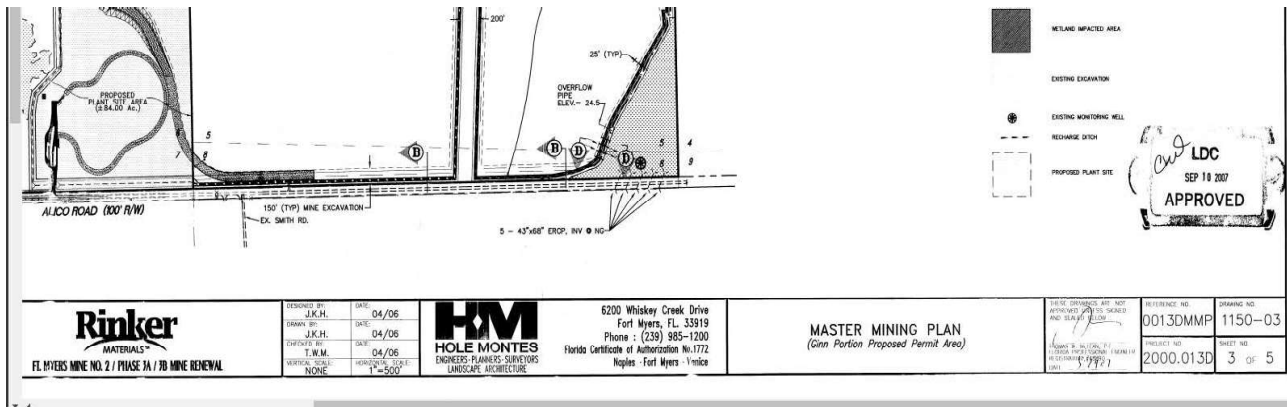
Staff recommends **APPROVAL** of the deviation request.

Phases 3A and 3B were permitted prior to Chapter 12 requirements. Excavation has already

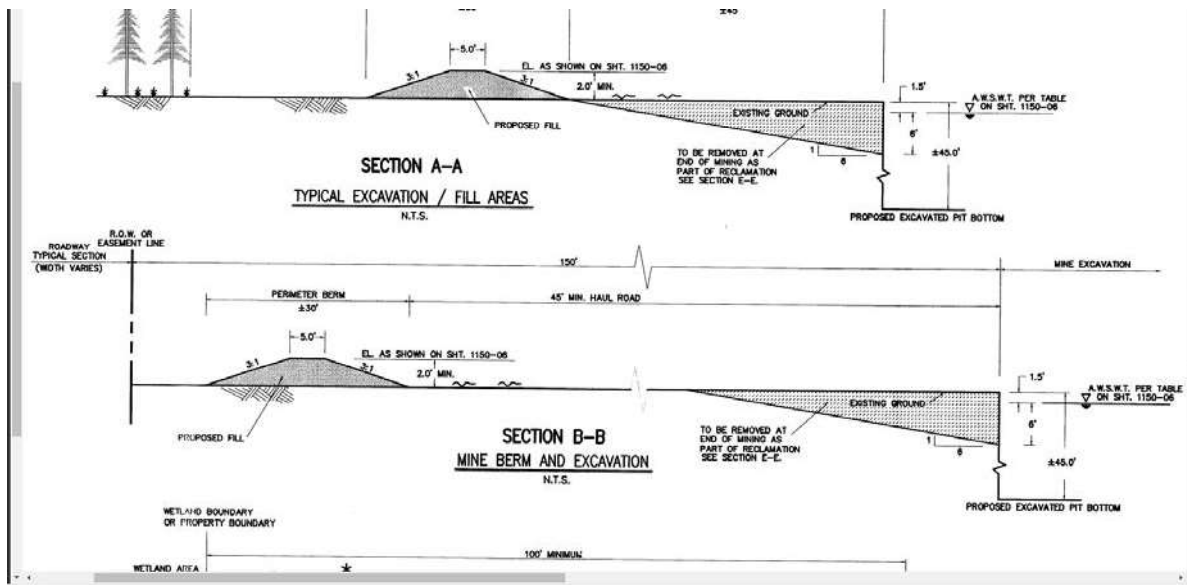
taken place in accordance with properly issued permits.

Deviation (3-A/3-B) seeks relief from the LDC Section 12-113(c)(1)a requirement to provide a 150-foot excavation setback from an existing street right-of-way, to recognize the existing approval for a 100-foot excavation setback from a right-of-way (Alico Road).

Staff Comments: Staff recommends **denial** of this deviation. The plans approved in LDO2007-00214 on September 10, 2007 clearly indicated a 150-foot setback from the roadway to the mine excavation. Please see the cross section B-B from the approved plans below:



Sheet 3 of 5 of LDO2007-00214 LDC Approved Plans



Sheet 5 of 5 of LDO2007-00214 LDC Approved Plans

Staff recommends approval with the following changes to the request:

Deviation (3-A/3-B) seeks relief from the LDC Section 12-113(c)(1)a requirement to provide a 150-foot excavation setback from an existing street right-of-way, to recognize the existing approval for a 75-foot excavation setback from a right-of-way for the future Alico Road widening (150 feet from the existing street right-of-way).

Staff's recommendation will ensure continuity of the setback between Phases 3A, 3B, and 3C and is consistent with prior approvals of those phases. It should be noted that Deviation (3-B) does not apply to the eastern property line as shown on Sheet HM14 Schedule of Deviations Location Map.

Deviation (3-C) seeks relief from the LDC Section 12-113(c)(1)a requirement to provide a 150-foot excavation setback from an existing street right-of-way, to recognize the existing approval for a 75-foot excavation setback from a future right-of-way for the future Alico Road widening (150 feet from the existing street right-of-way).

Staff recommends **APPROVAL** of the deviation request.

This deviation request was approved in Resolution Number Z-13-026 and is being carried forward into this approval.

Deviation (4-A) seeks relief from LDC Section 12-116 (b)(2), Permanent Count Stations, which requires the construction of a paved channelized access from a minimum of 200 feet inside the mine property boundary up to the public road and a permanent count station to monitor daily vehicle trips along with a warranty for repairs, major maintenance and replacement, and that the mine operation pay the annual operational and maintenance fees, to not provide the permanent count station with warranty.

Staff recommends **DENIAL** of the deviation request.

The applicant seeks to memorialize the existing condition of the mine. However, the proposed expansion into Phase 3D, and the incorporation of the existing mining operation into a single overall approval, should not exempt the operation from providing a paved channelized access and permanent count station to monitor daily trips. As detailed in the Memorandum provided by Development Review Staff (Attachment "M"), the required permanent count stations will allow "county staff to accurately monitor the quantity and classification of daily mine-related traffic." This information will be used to determine the adequacy of turn lanes and will assist in determining that mining activities have adequate transportation facilities. This will further protect the public safety and welfare. Additionally, this will allow mine-related monitoring and

allow the opportunity to discover and address any adverse impacts. Since original mining approvals in the late 1980s and through the 1990s, land uses in proximity to the mine site have changed. Specifically, a change from sparse residential developments to large residential and mixed-use planned developments along both Alico and Corkscrew Roads with the associated traffic creates significant intermingling of heavy vehicles and passenger vehicles. For these reasons, Staff recommends denial of the deviation request.

Deviation (5-A) seeks relief from LDC Section 12-116 (c), Transportation Impact Mitigation, which requires the mine operator to contract with local law enforcement to provide continuous monitoring of truck traffic, to develop a truck hauling operation plan, to maintain, repair or replace the access within the off-site specific improvements, and to provide certain information to establish a user fee, to not provide these services.

Staff recommends **DENIAL** of the deviation request.

For much of the same reasons listed above in Deviation (4-A), including the health, safety and welfare of the public, Staff recommends denial of the deviation request. The applicant's justification relies on no trucks entering the public right-of-way via the Phase 3D expansion. However, the MEPD encompasses the mining operation as a whole. While a deviation was approved in the Phase 3C expansion it was specific to Phase 3C only and did not include the processing and trucking facility. This code provision specifically relates to public safety to ensure that truck traffic is monitored and in compliance with a truck hauling operation plan. Additionally, Staff sees no benefit in not requiring the mine operation to maintain, repair or replace improvements within the county-maintained right-of-way as this access benefits the mine operation.

Deviation (6-A/6-B) seeks relief from the LDC Section 12-119(b), Reclamation Standards, requirement to provide the reclaimed shoreline littoral shelf as a created wetland designed to sustain wildlife, to recognize the existing, approved reclamation plan for Phases 3A/3B.

Staff recommend **APPROVAL** of the deviation request.

The previous approval in LDO2007-00214 included a reclamation plan for Phases 3A/3B. The purpose of this request is to memorialize those approvals.

Deviation (6-C) seeks relief from the LDC Section 12-119(b), Reclamation Standards, requirement to provide the reclaimed shoreline littoral shelf as a created wetland designed to sustain wildlife, to recognize the existing approval for the shoreline design per FAA Advisory Circular 150/5200-33C.

Staff recommends **APPROVAL** of the deviation request.

This deviation request was approved in Resolution Number Z-13-026 and is being carried forward into this approval.

Deviation (6-D) seeks relief from LDC Section 12-119(b), Reclamation Standards, which requires that reclamation standards be followed to ensure long term plans to sustain fish and wildlife, to allow for the shoreline design per FAA Advisory Circular 150/5200-33C.

Staff recommends **APPROVAL** of the deviation request.

The Phase 3D expansion is within 10,000 feet of the SW Florida International Airport. In accordance with LDC 34-1110(a)(9), the applicant has proposed development in accordance with FAA recommendations in the referenced FAA Advisory Circular.

Deviation (7-C) seeks relief from LDC Section 12-119(a), Reclamation Plan, which requires the excavated lake to be designed to ensure appropriate native wetland areas will be created as a littoral shelf, to recognize the existing approval for the shoreline design per FAA Advisory Circular 150/5200-33C.

Staff recommends **APPROVAL** of the deviation request.

This deviation request was approved in Resolution Number Z-13-026 and is being carried forward into this approval.

Deviation (7-D) seeks relief from LDC Section 12-119(a), Reclamation Plan, which requires that the excavated lake be designed to ensure appropriate native wetland areas will be created as a littoral shelf, to allow for the shoreline design per FAA Advisory Circular 150/5200-33C.

Staff recommends **APPROVAL** of the deviation request.

The Phase 3D expansion is within 10,000 feet of the SW Florida International Airport. In accordance with LDC 34-1110(a)(9), the applicant has proposed development in accordance with FAA recommendations in the referenced FAA Advisory Circular.

Deviation (8-C) seeks relief from LDC Section 12-119(a)(7), Reclamation Plan, which requires that lake bank slopes be sloped at a ratio not greater than 6 horizontal to 1 vertical from the top of finished grade to a water depth of 4 feet below the dry season depth, to recognize the existing approval for lake bank slopes to be sloped at a ratio of 4 horizontal to 1 vertical from the top of

finished grade to the wet season water table and 2 horizontal to 1 vertical down to a water depth of 4 feet below the wet season water table and to be covered with rip rap, as shown on the typical reclamation section, in accordance with FAA Advisory Circular 150/5200-33C.

Staff recommends **APPROVAL** of the deviation request.

This deviation request was approved in Resolution Number Z-13-026 and is being carried forward into this approval.

Deviation (8-D) seeks relief from LDC Section 12-119(a)(7), Reclamation Plan, which requires that lake bank slopes be sloped at a ratio not greater than 6 horizontal to 1 vertical from the top of finished grade to a water depth of 4 feet below the dry season depth, to allow for lake bank slopes to be sloped at a ratio of 4 horizontal to 1 vertical from the top of finished grade to the wet season water table and 2 horizontal to 1 vertical down to a water depth of 4 feet below the wet season water table and to be covered with rip rap as shown on the typical reclamation section, in accordance with FAA Advisory Circular 150/5200-33C.

Staff recommends **APPROVAL** of the deviation request.

The Phase 3D expansion is within 10,000 feet of the SW Florida International Airport. In accordance with LDC 34-1110(a)(9), the applicant has proposed development in accordance with FAA recommendations in the referenced FAA Advisory Circular.

Deviation (9-D) seeks relief from LDC Section 12-113(1), Open Space, which provides that the open space requirements may be met by the provision of buffers, indigenous area, setbacks, and wildlife habitat areas on site, to allow for the open space requirements to be met by areas previously permitted within Phases 3A, 3B, and 3C, and proposed within Phase 3D, as shown on the Master Mining Plan.

Staff recommends **APPROVAL** of the deviation request.

Deviation (10-D) seeks relief from LDC Section 12-113 (m), Indigenous Preservation and Replanting, which requires mines to provide 25 percent of the project site as indigenous preservation or as on-site indigenous replanting if the property does not contain existing indigenous plant communities, to allow existing, previously approved indigenous areas, both on and off-site, and proposed preserve areas to meet this requirement, for a total of 73.1 acres on-site and 124.75 acres off-site (16.6 percent).

Staff recommends **APPROVAL** of the deviation request.

Deviation (11-D) seeks relief from LDC Section 12-113(p), Wildlife Habitat, which requires 300-

foot wide wildlife habitat areas with plantings providing connectivity to adjacent preserves or conservation lands, to allow for the indigenous preserves and open spaces with a minimum width of 125 feet and a maximum width of 1,534 feet to meet the intent of the wildlife habitat area, with an alternate planting plan to include the plant types and sizes in both wetland and upland areas as shown on Sheet 10 of the Landscape Plans.

Staff recommends **APPROVAL** of the deviation request.

Deviation (12-D) seeks relief from LDC Section 12-107(5), which requires that mining activity must facilitate the connection of mining lakes in a system of interconnected lakes and flowways, to not require the mining lake connections.

The requested deviation was approved as part of the Phase 3C excavation. At the conclusion of the mining operation for all phases, there will be four separate lakes. Maintaining separate lakes and not requiring the interconnection benefits the environment. Interconnecting the lakes would negatively impact the water table and be detrimental to water resources. The interconnection of mining lakes is not required in the Lee Plan.

Staff recommends **APPROVAL** of the requested deviation.

Deviation (13-D) seeks relief from LDC Section 34-625, which requires a site lighting plan, to allow existing lighting to remain in accordance with previously approved photometric plans.

Staff recommends **APPROVAL** of the deviation request.

The applicant is not proposing any additional outdoor lighting as part of the expansion into Phase 3D. The only existing outdoor lighting is associated with the processing facilities in Phase 3A. There are no proposed changes to the existing lighting that has been previously approved.

Deviation (14-D) seeks relief from LDC Section 12-116 (b)(1) Turn Lanes, which requires left turn and right turn deceleration and storage lanes to be installed at the mine entrance on all collector and arterial roads, to utilize the existing east bound to north bound left turn lane and west bound right-turn acceleration lane within Alico Road, without modification to the existing facilities.

Staff recommends **DENIAL** of the deviation request.

The applicant, in their justification for the request, notes that the turn lanes, deceleration lanes, and storage lanes were constructed in accordance with the Hearing Examiner's Decision and the Land Development Code at the time of the original development order for Phases 3A and 3B. Additionally, the applicant contends that the addition of Phase 3D does not include a direct access to any public road. Staff does concur that the mine operation was constructed and is

currently operating in accordance with previous approvals and that Phase 3D does not propose a direct access to county-maintained right-of-way. However, all phases (3A-3D) of the mine operation are included in this request and utilize the existing processing facilities which provides direct access to Alico Road. Although a similar deviation was approved in Resolution Number Z-13-026, the resolution only applied to the Phase 3C operating area and did not include the existing mine operation, processing facility, or access to Alico Road. Additionally, as detailed in the Development Services Memorandum (Attachment "M"), the change in recent traffic patterns, land uses, and rapid residential and mixed-use planned development growth along the Alico Road and Corkscrew Road corridors necessitates the need to analyze the existing turn lanes, deceleration lanes, and storage lanes to promote and protect public safety. Staff recommends that the analysis of the existing turn lanes, deceleration lanes, and storage lanes is most appropriate at the time of development order review and not at time of rezoning.

Staff recommends **APPROVAL** of the following additional deviation not requested by the applicant:

Deviation (15) seeks relief from the LDC Section 10-291(3), Required street access, which requires industrial development of more than ten acres to provide more than one means of ingress or egress for the development, to allow the previously approved single access point to Alico Road as shown in the Mine Excavation Planned Development plans.

This deviation will allow the permitted existing single access point to Alico Road. Alico Road is a controlled access roadway. The existing access point has been in operation for several years. This approval will allow continued operation of the mine and processing facility and will not require an additional ingress or egress point.

CONCLUSION:

Based on the analysis provided above, staff offers the following review of the decision-making criteria for the planned development rezoning request. Staff finds that the proposed request, as conditioned:

- a) Complies with the Lee Plan;

Based on the analysis above, staff finds that the request is consistent with the Lee Plan. The proposed use are compatible with existing and proposed uses, and meets or exceeds the objectives and policies above.

- b) Meets this Code and other applicable County regulations or qualifies for deviations;

The applicant seeks twenty two deviations from requirements in the Land Development Code. A majority of those requests will memorialize existing approvals to allow continuing operation in previously permitted phases. Staff recommends approval of eighteen deviations as

conditioned above, the denial of three requested deviations, and language changes to two requested deviations.

- c) Is compatible with existing and planned uses in the surrounding area;

The request proposes the addition of a Phase 3D excavation area inside an existing mining operation. Phase 3D is bordered on the west and south by an existing mining operation, on the north by airport property and to the east by conservation lands and wetlands.

- d) Will provide access sufficient to support the proposed development intensity;

There is current access provided via Alico Road. Staff finds that there is sufficient access to the proposed development, subject to the recommended conditions of approval.

- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;

Staff has reviewed the transportation impacts of the development, and has concluded that with the roadway impacts expected by the proposed development, the roadways will still operate at an acceptable level of service. Staff has recommended the denial of three transportation related deviations that will be addressed at time of development order.

- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and

Staff has reviewed the potential environmental impacts and has determined that the requirements of the Land Development Code and Lee Plan, as well as recommended conditions of approval, sufficiently protect existing environmentally critical areas.

- g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.

Additionally,

- a) The proposed use or mix of uses is appropriate at the proposed location;

The proposed mining operations are appropriate at their location given the consistency with the Lee Plan Policies for development in the Density Reductions/Ground Water Resources, and the Southeast Lee County Community Plan Area.

- b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and

Staff finds the proposed conditions appropriate for approval and as conditioned the public's interests are sufficiently addressed.

- c) That each requested deviation enhances the achievement of the objectives of the planned development; and preserves and promotes the general intent of this Code to protect the public health, safety and welfare:

Staff recommends approval of nineteen deviations as detailed above.

- d) Mine excavation planned developments must meet the following:

- 1) The mining activity will not create or cause adverse effects from dust, noise, lighting and odor on existing agricultural, residential, conservation activities, or other nearby land uses.

The proposed rezoning includes areas of ongoing natural resource extraction and processing. The Phase 3D expansion is proposed on lands previously approved for mining operations and will provide flow way connections and wildlife corridors and habitat.

- 2) The Applicant has given special consideration to the protection of surrounding private and publicly owned conservation and preservation lands.

The applicant is providing onsite indigenous areas and wetland preservation areas on-site. Site buffering will be consistent with previous approvals. Wetland 200 will maintain a connection to the offsite flow way to the east.

- 3) Approval of the request:

- i. 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;

The applicant has provided hydrologic modeling and measures including a spreader swale system and wetland monitoring to ensure that water elevations are maintained and mitigated.

- ii. Will serve to preserve, restore and enhance natural flowways deemed important for local or regional water resource management.

The proposed plan maintains a hydrologic connection between Wetland 200 and the flow way adjacent to the site to the east.

- iii. Preserves indigenous areas that are occupied wildlife habitat to the maximum extent possible.

The proposed plans have been designed to interconnect with existing approved mining operations while providing wildlife habitat to the maximum extent possible.

- iv. Provides interconnection to off-site preserve areas and conservation lands via indigenous preservation areas, flowway preservation or restoration, and planted buffer areas.

The proposed plan maintains a hydrologic connection between Wetland 200 and the flow way adjacent to the site to the east as well as providing indigenous preserve areas and planted buffers consistent with past approvals.

4) The site is designed to:

- i. Avoid adverse effects to existing agricultural, residential or conservation activities in the surrounding area.

The site is a current mining operation and will continue to provide buffering consistent with past approvals. Hydrologic model simulations were provided to demonstrate no adverse effects to surrounding areas.

- ii. Avoid adverse effects from dust, noise, lighting, or odor on surrounding land uses and natural resources.

The site is an ongoing mining operation with previous approvals in place. These approvals as well as the proposed expansion into Phase 3D avoids adverse impacts on surrounding property

- iii. Mimic or restore the natural system pre-disturbed water budget to the maximum extent practicable.

The site is design to store site run-off in accordance with South Florida Water Management criteria. Dewatering is not an authorized activity on the site.

5) Traffic mitigation standards in section 12-116.

Staff has recommended denial of the requested deviation to LDC Section 12-116 in the interest of protecting the health, safety, and welfare of the public as

detailed above and in the attached memo from Development Services (Attachment "M").

6) Reclamation standards in section 12-119.

The proposed plan and deviations meet the intent and standards for site reclamation as required.

Staff, therefore, recommends approval of this planned development rezoning request, as conditioned in Attachment C.

ATTACHMENTS:

- A. Expert Witness Information
- B. Maps
 - Zoning
 - Future Land Use
 - Aerial
- C. Legal Description
- D. Recommended Conditions and Deviations
- E. Mine Development Plans
 - MDO Plans (September 8, 2022)
 - MEPD Plans (stamped received September 15, 2022)
 - Landscape Plans (July 29, 2022)
- F. Zoning Actions
 - ZAB-86-62
 - Special Exception #93-01-28-EXC-02
 - Z-13-026
- G. Applicant's Supporting Documentation
 - Summary Narrative
 - Schedule of Uses
 - Schedule of Deviations
- H. LCPA Letter of Review, March 29, 2021
- I. Public Information Meeting, September 8, 2021
- J. Memorandum from Infrastructure/Planning, Nov 8, 2022
- K. Memorandum from Zoning Division – Environmental Review
 - Attachment "A" – North Quarry Phase 3C Off-site Mitigation, October 2019
 - Attachment "B" – Florida Natural Areas Inventory Report, September 9, 2021
 - Attachment "C" – Alico Quarry 3D Indigenous Restoration Plan, revised March 29, 2022
- L. Natural Resources Staff Report and Conditions, November 22, 2022
 - Attachment 1 – Hydrogeologic Report Alico Quarry, revised June 17, 2021