

**City of Fellsmere City Council
Agenda Request Form**

6(a)(b)(c)

Meeting Date: November 2, 2017

Agenda Item No.

- PUBLIC HEARING
- Ordinance on Second Reading
- Public Hearing

- RESOLUTION
- DISCUSSION

ORDINANCE ON FIRST READING

BID/RFP AWARD

GENERAL APPROVAL OF ITEM

CONSENT AGENDA

Other:

SUBJECT: First Public Hearing for Planned Development Rezoning and Preliminary and Final Development Plans with Phasing for the Corrigan Mine.

RECOMMENDED MOTION/ACTION: Conduct First Public Hearing for Planned Development Rezoning and Preliminary and Final Development Plans with Phasing for the Corrigan Mine and set second and final public hearing for December 7, 2017.

Approved by City Manager _____

Date: 10/24/17

Originating Department:	Costs: \$ Funding Source: Acct. #	Attachments: See attached list below.
Department Review: <input checked="" type="checkbox"/> City Attorney _____ <input checked="" type="checkbox"/> Comm. Dev. _____	<input type="checkbox"/> Finance _____ <input type="checkbox"/> City Engineer _____ <input type="checkbox"/> FPD _____	<input type="checkbox"/> Public Works _____ <input type="checkbox"/> City Clerk _____ <input checked="" type="checkbox"/> City Manager _____
Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case <u>X</u> Please initial one.

Submittal information: Council meets on the first and third Thursday's of each month. Agenda submittal deadline to the City Clerk is 5:00 p.m. of the last and second Thursday of each month. Therefore the deadline of the Agenda Request Form to the City Manager shall be the last and second Monday prior to the Thursday deadline.

Summary Explanation/Background:

The Corrigan Ranch is authorized for commercial mining subject to approval as a Planned Development. Stewart Materials, a high quality mine operator in the region will operate the mine. Please refer to the attached documents for project details.

- Ordinance No. 2017-31 – Approval of Rezoning to Planned Development
- Resolution No. 2017-30 – Approval of Development Agreement
- ➔ Development Agreement
- Voluntary Mining Contribution
- ➔ Resolution No. 2017-31 – Approval of Preliminary and Final Development Plan with Phasing
- Preliminary Development Plan
- Final Development Plan Phase 1

Conditions of approval are contained in the documents noted above with "➔".

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Preliminary Development Plan & Phase I Final Development Plan
STAFF REPORT

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SUMMARY

The Applicant, Stewart Materials, LLC, as lease holder and representatives of the land owner, has applied for approval of a phased commercial mine. The project is proposed to be located on approximately 972.52 acres at the north end of 90th Street. The property is currently agricultural grazing land. The property is devoid of native habitat. Poor quality wetlands exist on the property and are proposed to be mitigated.

REQUIRED APPROVALS

Specific approvals sought include the following.

- Planned Development Rezoning
- Preliminary Development Plan
- Development Agreement
- Zoning Certificate
- Phase 1 Final Development Plan
- Phase 1 Concurrency Determination
- Phase 1 Floodplain Development
- Phase 1 Fire (Site-related)
- Phase 1 Tree Removal
- Phase 1 Excavation and Fill
- Phase 1 Site Construction Plan

REQUIRED AGENCY PERMITS/LICENSES

Additional outside agency permits will be required from the following:

- Florida Department of Environmental Protection (FDEP) for stormwater and wetland mitigation;
- Indian River County Health Department for water and sewer service;
- Indian River County Right of Way (IRC ROW) for improvements within County rights-of-way (if required);

ADJACENT USES

Adjacent uses are as noted below.

Table 1: Adjacent Uses

	Existing Use	Zoning	Future Land Use	Comments
North	Agriculture (grazing)	A-1 (IRC)	LDMXN	Lots are larger than 10-acres. Compatible
South	Agriculture (grazing)	A-1 (IRC)	LDMXN	Lots are larger than 10-acres. Compatible
East	Agriculture (grazing, groves, mining)	A-1 (IRC)	LDMXN	Lots are larger than 10-acres. Compatible
West	Agriculture (grazing)	A-1 (IRC)	LDMXN	Lots are larger than 10-acres. Compatible

IRC = Indian River County

An aerial image of the property is shown on the following page.

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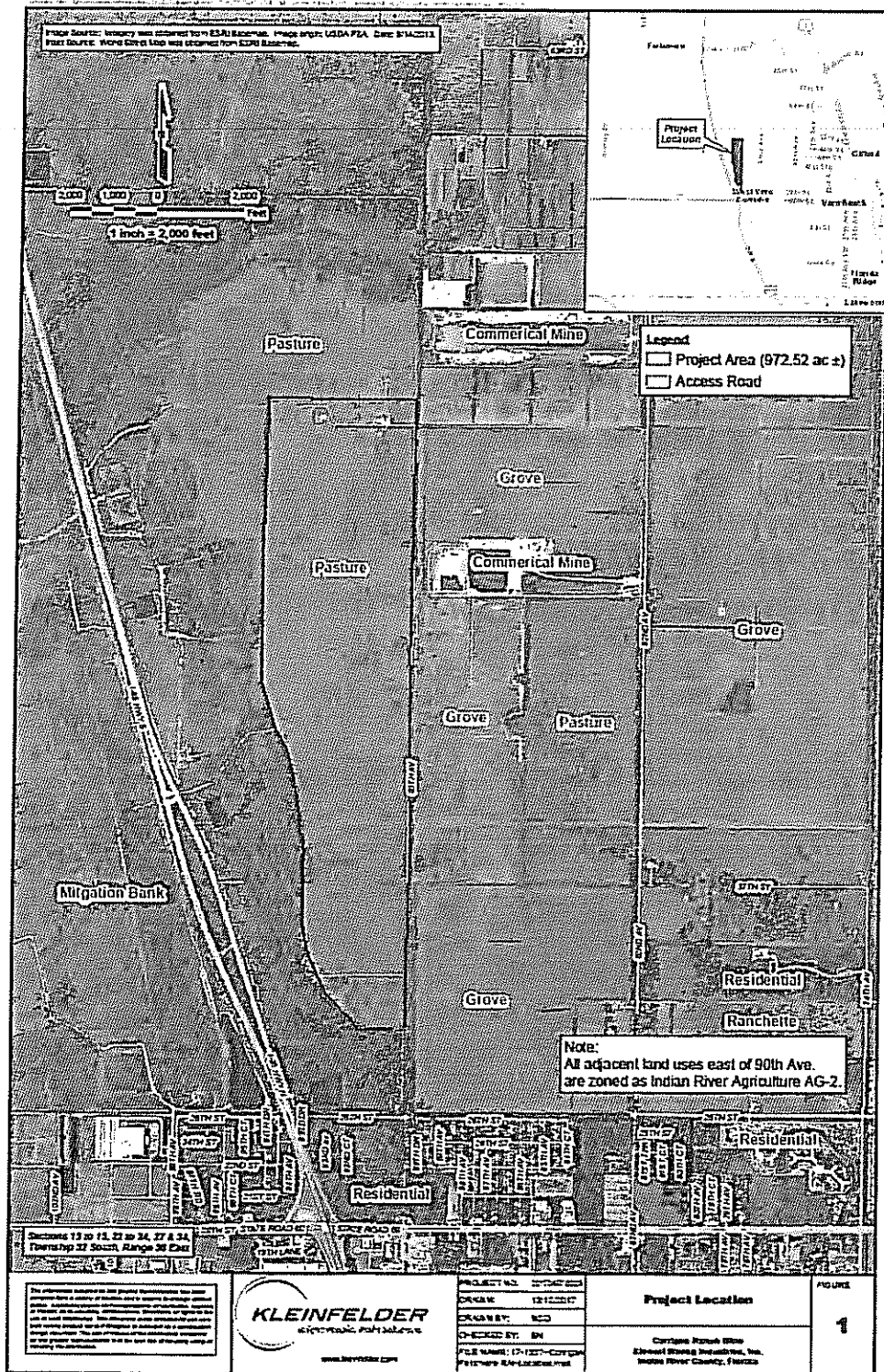


Figure 1: Location Map

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PRIOR APPROVALS

The property is subject to site specific conditions contained in the Comprehensive Plan that were placed on the land in 2014. The following are excerpts from the Comprehensive Plan Objective B-22 that are pertinent to this project.

COMPREHENSIVE PLAN

Policy FLUE B-22.1. The Developing Party shall provide a public school capacity analysis, an environmental study and traffic impact analysis prior to site plan review for each phase of development.

Public school capacity analysis is not applicable. Traffic analysis has been provided.

Policy FLUE B-22.2. The Developing Party shall provide at developer's expense for the construction of all required public facilities, roadways, turn lanes and utilities improvements, connections and extensions as determined by the City to be needed for the development of the land. All roads needed for the development shall be paved at owner's/developer's expense to City, County or State standards, as applicable.

Agricultural roads are not required to be paved. Any off-site roadway improvements will be identified in the Development Agreement and will be the responsibility of the Applicant. A security will be required for all unpaved County roads utilized as part of the haul route.

Policy FLUE B-22.3. The Developing Party shall demonstrate prior to each site plan approval that all concurrency provisions have been addressed or met including but not limited to: schools, sanitary sewer, solid waste, drainage, potable water, parks and recreation, and transportation facilities.

Schools – not applicable
Sewer – septic via Health Department Permit
Water – potable water well per Health Department Permit
Drainage – per FDEP permit
Parks & rec. – not applicable
Transportation – see traffic analysis

Policy FLUE B-22.4. The Developing Party shall enter into a development agreement to provide for payment of fees for or direct construction of public facilities and services demanded by the development.

A Development Agreement accompanies approval. See development agreement.

Policy FLUE B-22.5. The Developing Party is responsible for all costs associated with any new or expanded public facilities and services required to make the project meet concurrency regulations or to provide the proportionate or fair share contributions therefore.

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Approval documents will require the Developing Party to pay all costs associated with any new or expanded public facilities and services required to make the project meet concurrency regulations or to provide the proportionate or fair share contributions therefore.

Policy FLUE B-22.7. Regardless of the open space requirements that may be required for each future land use designation that may be assigned to the Property, a minimum aggregate total of 50% of the Property shall be set aside as open space. Each of the following uses shall qualify to meet the open space requirement: conservation areas; greenways and trails; all public parks greater than one acre, whether passive or recreational; pervious portions of agricultural land; golf courses; all common open space; all drainage and stormwater management systems, whether conveyance, retention, or detention; upland preserves; and all public institutional property that is donated (not sold); all subject to the reasonable discretion of the City Council through the Land Development Code or conditions imposed as part of the planned development process.

Project meets the open space requirements as the constructed lakes are all considered open space as are the surrounding agricultural lands within the development limits.

Policy FLUE B-22.9. The Owner and/or Developing Party shall be permitted to perform commercial mining activities within the Property, subject to procurement of applicable project permits and regulatory approvals.

Noted.

Policy FLUE B-22.10. A minimum of 2,000 acres of environmentally sensitive native upland/wetland areas shall be preserved.

Preserved through approval of the mitigation bank on west side of I-95.

Policy FLUE B-22.13. The Developing Party shall dedicate without compensation sufficient right-of-way for 90th Avenue, as the same is ultimately determined to be located and configured, as a condition of development of each Planned Development on the east side of Interstate 95 traversed by or adjacent to 90th Avenue as extended.

Right-of-way dedication is deferred until permanent development on site.

Policy FLUE B-22.14. The Developing Party shall dedicate without compensation sufficient right-of-way for 53rd Street, as the same is ultimately determined to be located and configured, as a condition of development of each Planned Development on the east side of Interstate 95 traversed by or adjacent to the proposed 53rd Street extension.

To be deferred to subsequent planned developments.

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ANNEXATION AGREEMENT

11. Conveyance to the City.

The Owner and/or Developing Party shall contribute ten (10%) percent of the gross acreage of the Annexation Properties (the "Donation Acreage") to the City. The contribution shall be in the nature of a conveyance or the dedication of property for public open space, public parks, public recreation areas, public parking, public buildings and structures and economic development initiatives. The contribution shall be by General Warranty Deed to the City without any compensation to the conveying party. The location of such acreage will be mutually agreed upon and shall include, but not be limited to, providing 100 contiguous net useable acres for an outdoor recreation area with mutually agreeable uses.

The Donation Acreage shall be conveyed to the City on a proportional basis to the property to be developed upon approval of each Plat or final development order if a plat is not required, (e.g. plat approval or a final development order for 1000 acres will require a dedication or conveyance of 100 acres provided prior conveyances have not already satisfied the total Donation Acreage accrued obligation). All such conveyances shall also be creditable toward open space as stated in Section 3.F of this Agreement, and all such conveyances for public open space, public parks, public recreation areas shall be creditable toward the common green space requirement of Section 15.10(A)(12) of the City of Fellsmere Land Development Code, subject to Council's discretion to change the Land Development Code. All dedications to the City used for public open space, recreation or public facilities needs shall be includable in the Donation Acreage calculation.

Donation is deferred until permanent development.

REQUESTED DESIGN STANDARD WAIVERS

The Applicant has requested a single relief from the City's design standards as noted below. Staff concurs with this request.

The purpose of a Planned Development is to increase the amount and use of open space areas; reduce energy costs through a more efficient use of land and smaller networks of utilities and streets; and create innovative concepts of site planning in the creation of aesthetically pleasing living, shopping and working environments. As allowed by Section 3.21.K, LDC, the city council may waive various engineering or design provisions contained with this Code when a project's design features, land use, densities and intensities are consistent with the comprehensive plan.

Table 2: Design Waivers

Existing LDC Section to be waived	Provision as amended to be complied with	Justification
3.21.G.5 – open water bodies as open space	Defer construction of water access until future urban development	The remaining private agricultural operation will not benefit from such access.
7.9.A.2.- Provide sidewalk/ bikeways on adjacent roadways	Defer until future urban development.	Sidewalks or bikeway serving an interim use may not be appropriate for future urban development.

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Table 2: Design Waivers - continued

Existing LDC Section to be waived	Provision as amended to be complied with	Justification
3.21.H.1.	Height = 50' for dragline boom and stockpiles	The only potential structures associated with the operation that might possibly exceed the City's building height limits is a dragline boom which varies in elevation as needed for the operation. Additionally, material stockpiles may also exceed the referenced heights; however, these are not structures, are internal to the operation, and should not be required to meet height restrictions." Mine conveyors not to exceed 50' in height.
3.21.H.1.i	Buffers – 25' wide, Type 'B'	Utilize existing vegetation

CONDITIONS OF APPROVAL

As required by Policy FLUE C-1.4. Conditional Approvals, the City Council shall have the ability to approve, approve with conditions or deny a request for Planned Developments based upon broad discretionary criteria to be set forth in the Land Development Code. The City Council shall apply any condition deemed necessary to assure consistency with the Comprehensive Plan, compatibility with the surrounding area, and promote the safety, health, welfare, and aesthetics of the City as a whole for any Planned Development project.

Conditions of approval are reflected in the approval resolutions and the accompanying Development Agreement. For sake of brevity, these conditions will not be duplicated here. Please refer to the approval resolutions and Development Agreement for further details.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The Applicant provided a detailed analysis of the consistency of the project with the Comprehensive Plan. Staff has reviewed and concurs with the analysis. A complete presentation of this analysis can be found in the project files in the Community Development Department.

LAND DEVELOPMENT CODE REVIEW

OPEN SPACE – REGULATED BY 3.21.G, LDC

- *3.21.G.3: All common open space, as well as public and recreational facilities, shall be specifically included in the development schedule and be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.*

The project is comprised of the development of common open space that results from the mining activity via the remaining lakes and has been included in the development schedule.

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- *3.21.G.5: Requires 30% of site to set aside for such use. The following may be credited in meeting the required open space: parks, recreation areas, conservation easements, bicycle and pedestrian paths and facilities, urban plazas, marinas, swimming beaches, common open space, stormwater treatment facilities, utilities and common landscaping and planting areas.*

The project is meeting the required open space as reflected on the Final Development Phase 1 plan sheet.

- *All stormwater treatment facilities included as part of the open space requirement, shall be either 1) permanent water bodies improved with gazebos, overlooks, elevated boardwalks or pathways, docks or piers, and a littoral zone or 2) permanent dry retention or detention areas designed in accordance with the University of Florida guidelines for low impact design.*

Lakes meet these requirements and are credited toward the required open space. Construction of the required gazebos, overlooks, elevated boardwalks or pathways, docks or piers is deferred until future urban development occurs.

- *For permanent water bodies, the slope of the planted littoral zone shall be no steeper than one foot vertical to ten feet horizontal to a distance of ten feet waterward of the designated planted littoral zone area. The littoral zone shall be maintained around all sides so as not to harbor mosquitoes, insects or rodents. The upland buffer and littoral zone may be clustered.*

Lakes meet these requirements.

- *Excluding the planted littoral zones, slopes shall not exceed 4:1 horizontal to a depth of six feet and 2:1 thereafter.*

Lakes meet these requirements.

- *An upland buffer extending ten feet landward of the littoral zones shall also be provided and shall include at least one appropriate tree species for every 750 square feet of upland buffer.*

Lakes meet these requirements.

- *3.21.G.7: No parcel of land identified for use as common open space shall be less than one-half contiguous acre, and all such areas shall be physically part of the planned development.*

All credited common open space meets this requirement.

UTILITIES

Water –potable water well permitted through Indian River County Health Department.

Sewer – septic to be permitted through Indian River County Health Department

Electric – all lines to be underground.

Cable – all lines to be underground.

Telephone – all lines to be underground.

Stormwater – permitted by FDEP.

PARKING & LOADING - REGULATED BY 3.21.H.1.G AND 7.2, LDC

Parking and loading can easily be accommodated within the development limits. As an agricultural use, parking is not required to be improved.

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BUILDINGS - REGULATED BY S.21.R.1 & S.21.K.1

H. General development standards for all planned developments (PD).

1. Base standards.

Issue	Required	Provided
Perimeter Setback	25' minimum	Exceeds minimum.
Minimum Lot Size	No lot smaller than 5,000sf	Exceeds. Will not be platted.
Residential Density	NA	NA
Maximum Height	35' / 50' to features	Meets standard.
Front Building Setback	25' from ROW minimum 50' from Arterial ROW minimum	Meets standard.
Building Length	NA	NA
Building Separation	NA	NA

I. Height restrictions. The height of all principal buildings shall not exceed 35 feet. No accessory building or other structure shall exceed 20 feet in height.

Varied by site specific condition to not exceed 50' for accessory mine structures.

ACCESS - REGULATED BY S.21.R.1.H & M

h. Access to public or private street. Each dwelling unit or other permitted use shall have access to a public street either directly or indirectly via an approach private road, pedestrian way, court or other area dedicated to public or private use or common easement guaranteeing access. Permitted uses are not required to front on a publicly dedicated road; however, the city shall be allowed access on privately owned roads, easements and common open space to ensure the police and fire protection of the area, to meet emergency needs, to conduct city services, and to generally ensure the health and safety of the residents of the planned development district.

All access points are to publicly owned roads.

n. Access and traffic control.

- 1) *Access barrier. Each zoning lot, with its buildings, other structures, and parking and loading areas, shall be physically separated from each adjoining street by a curb or other suitable barrier against unchanneled motor vehicle ingress and egress. Such barrier shall be located at the edge of or within the perimeter buffer strip along the property line. Except for the access ways permitted by 2) below, the barrier shall be continuous for the entire length of the property line.*

The property is bordered on the east by the Sebastian River Water Control District and the west by Interstate 95 and the north and south by existing ditches. Access control exists.

- 2) *Access ways. Each zoning lot shall have not more than two access ways to any one street unless unusual circumstances demonstrate the need for additional access points.*

The project access meets this requirement.

Each access way shall comply with the following requirements:

- a) *The width of any access way leading to a public street shall not exceed 30 feet at its intersection with the property line. The width of the access way may exceed 30 feet when circumstances demonstrate the need for additional width such as segregated turn lanes, emergency services lane widenings, landscape medians*

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and other similar provisions. Curb returns shall have a minimum radius of 25 feet. Larger radii will be required to accommodate loading zones and the circulation of trucks and other public service vehicles.

Driveways meet these standards.

b) At its intersection with the property line, no part of any access way shall be nearer than 100 feet to the intersection of any two street right-of-way lines, nor shall any such part be nearer than 50 feet to any side or rear property line.

Driveways meet these standards by creating a standard intersection with the driveway serving as an "extension" of 90th Avenue intersecting with 26th Street.

c) The location and number of access ways shall be so arranged that they will reduce traffic hazards as much as possible.

Driveways meet these standards.

LANDSCAPING & BUFFERS – REGULATED BY 3.21.H.1.f)

i. Buffer yard requirements. A minimum 25-foot type "B" buffer yard setback shall be maintained around the perimeter of the planned development.

The project will utilize existing vegetation as buffers per a site specific condition.

j. Internal buffer requirement. Internal buffers shall be as follows: where commercial abuts residential, a 15-foot type "A" rear and side buffer shall be required

Being a mining development within an agricultural area, internal buffer requirements are not required.

3.21.H.1.f. Preservation of trees. In planned developments where woods, environmental corridors, conservation areas, wetlands, large hammocks, and scattered trees occur, the developer shall take into consideration all hardwood canopy trees of six inches d.b.h. or larger and all softwoods 12 inches d.b.h. or greater in the overall development plan. Aerial photography or tree surveys may be used to identify such trees. Any tree relocated on site shall count toward the overall landscape requirements. Hardwood trees with a ten-inch or larger d.b.h. shall be preserved or relocated unless they exist within:

- 1) Proposed public or private easement or drainage facility;*
- 2) Proposed structure dimensions;*
- 3) Five feet of a proposed structure;*
- 4) Proposed driveway;*
- 5) Proposed golf course or recreational areas.*

No protected trees are being removed.

Section 11.3.B. Drought Tolerance Requirements.

A minimum of fifty (50) percent of total cumulative landscape plant material used to meet the provisions of this Article shall be "moderately" or "very" drought tolerant as classified and listed in the most recent edition of the "South Florida Water Management Districts Xeriscape Plant Guide" or a comparable publication.

The Applicant has not requested a variance from this requirement. As part of the staff approval of the site construction plans, including the construction level landscape plans, this requirement will be enforced.

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Section 11.3.C. Trees.

2. *Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of a fifteen foot crown spread.*
3. *Palm clusters shall be considered trees. Palms, if used, shall consist of no more than fifty (50) percent of the total new tree requirement regardless of whether said palms are existing on the site or are relocated on the same site.*
4. *Tree sizes:*
 - a. *Required canopy trees shall be a minimum of fourteen (14) feet in height and have a caliper of three (3) inches at four and one-half (4 1/2) feet above the ground when installed. Height shall be determined by the average end of all branches not the tallest branch or two.*
 - b. *Where a building over twenty-five (25) feet in height is proposed to be located within fifty (50) feet of a perimeter property line, all canopy trees within required buffers located between the building and a site perimeter shall be a minimum of sixteen (16) feet in height and a three-inch diameter at four and one-half (4 1/2) feet above the ground and a minimum eight-foot spread at planting. Where a building over twenty-five (25) feet in height is proposed more than fifty (50) feet from a perimeter, the canopy tree height requirements of 4.a. above, shall apply to canopy trees within the buffer.*
 - a. *Required understory trees shall be a minimum of eight (8) feet overall in height and two (2) inch diameter at 0.5 feet above grade, at the time of planting. Multi-trunk trees shall have a one-inch caliper for all trunks at six (6) inches above grade.*

1. *The number of different species of trees, other than palms, shall be as follows:*

The Applicant has not requested a variance from the above requirements. As part of the staff approval of the site construction plans, including the construction level landscape plans, these requirements will be enforced.

TABLE 11A - REQUIRED TREES

<i>Required Number of Trees</i>	<i>Minimum Number of Species</i>
2--10	2
11--20	3
21--30	4
31--40	5
41—Over	6

2. *At least fifty (50) percent of all new required trees shall be of a native species.*

The Applicant has not requested a variance from the above requirements. As part of the staff approval of the site construction plans, including the construction level landscape plans, these requirements will be enforced.

Section 11.4 Perimeter Buffer Requirements.

D. Description of screening types.

2. *Type "B" semi-opaque buffer. The semi-opaque buffer is intended to partially block visual contact between uses. The type "B" buffer shall be completely opaque from the ground to a height of at least three feet with large trees utilized as intermittent visual obstructions from the opaque portion to a mature height of at least 16 feet. The semi-opaque buffer may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation or any combination thereof which maintains a completely opaque buffer of at least three feet at time of certificate of occupancy or its equivalent.*

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Compliance of planted vegetative buffers or natural vegetation will be judged on the basis of average mature height and density of foliage of the subject species or field observation of existing vegetation. The visual screen may be waived for all or portions of the buffer length as part of the final site plan approval.

The Applicant has not requested a variance from the above requirements. As part of the staff approval of the site construction plans, including the construction level landscape plans, these requirements will be enforced.

E. General standards for screening and buffer yards.

This section is superseded by the buffer requirements of the Planned Development District (section 3.21, LDC) which are more intense than standard buffer requirements.

SIDEWALKS & BIKEWAYS – REGULATED BY 7.9, LDC

7.9.A.2. Applicability. As a condition of the issuance of a development permit or building permit, as applicable, for any construction project, the city shall require the developer to construct a sidewalk, multi-use path, and/or bicycle facility along the development project street frontage(s) at the time of development. If it is determined that a bicycle facility or bicycle lane is required, and the property has frontage on a roadway classified as a major or minor arterial or collector street, then the city may require the owner or developer to make a cash payment to the city in lieu of constructing the facility or lane along the street frontage. The cash payment shall be equivalent to the estimated cost of providing the facility or lane as determined by the city manager or designee to include administration, design, construction and contingency costs. In such cases, the city shall retain the cash payment in a trust fund for use in construction of a bicycle facility or lane.

Due to the agricultural nature of the project and owing to the interim nature of the use, the sidewalk/bikeway requirements of the code are being deferred until future urban development.

Other Regulations

A hydrology report prepared and certified by a state-certified professional engineer or geologist has been prepared in support of the FDEP permit application. Please see project files in the Community Development Department to review report.

Unpaved haul routes located off of the project boundary shall be improved and maintained to the following standards:

1. Minimum gradable base of twelve (12) inches of suitable road base material (material that can meet the compaction standard below) shall be provided for the duration of the mining project. The mining operator(s) shall add gradable base material as directed by the Public Works Director or his designee to meet this gradable base material standard.
2. Base material shall be suitably compacted to meet LBR (load bearing ratio) 40 standards.
3. The minimum gradable haul route width shall be twenty-four (24) feet, unless reduced by the Community Development Director for haul route segments not used by the general public.
4. Where unpaved haul routes or haul route segments are allowed and the anticipated project haul truck traffic from the proposed mine and approved mines

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sharing the same haul route segment(s) exceed an average of five hundred (500) truck trip ends per day [as defined in subsection (4)(f) below], the unpaved haul route segment(s) shall be improved and maintained to the following standards:

- b. Minimum sub-base of twelve (12) inches and twelve (12) inches of suitable road base material (material such as coquina or structural equivalent approved by the Public Works Director or his designee that can meet the compaction standard below) shall be provided for the duration of the mining project.
- c. Road material shall be suitably compacted to meet LBR (load bearing ratio) 100 standards.
- d. The minimum gradable haul route width shall be twenty-four (24) feet.

Haul routes or haul route segments shall be paved if the anticipated project haul truck traffic from the proposed mine and approved mines sharing the same haul route segment(s) exceed an average of seven hundred fifty (750) truck trip ends per day. (Truck trip ends are one-directional. For example, one (1) truck entering the mine = one (1) trip end; the same truck leaving the mine = a second trip end.) Applicants may enter into a developer's agreement to equitably share or recoup paving costs.

1. Paved haul routes shall meet the following specifications:
 - a. Minimum pavement width shall be twenty-four (24) feet, unless reduced by the Public Works Director for haul route segments not used by the general public.
 - b. Pavement thickness base and sub-base depths shall meet county thoroughfare and truck route specifications, including ESAL (equivalent single axle loads) and pavement strength coefficients.

To provide gaps in haul truck traffic on haul routes and prevent significant haul truck backups at haul route/major road intersections, the following truck frequency standards shall be satisfied:

1. A mining operator shall limit the frequency of haul truck trips to and from his mining operation on two-lane roads to no more than one hundred twenty (120) trip ends per hour, with trips ends as defined in subsection (4)(f) above. This frequency standard may be exceeded for delivery of materials to special or large projects if the operator first obtains approval from the Community Development Director of a maintenance of traffic plan. Such plan shall include a coordinated hauling schedule if a shared haul route is used and method of maintaining acceptable traffic flow to provide "gaps" for nonproject traffic along the haul route. Said plan may also require additional improvements to or security for maintaining the haul route, and may require coordination with other mining operators. X
2. Along a two-lane haul route segment, cumulative haul truck trips shall not exceed two hundred forty (240) trip ends per hour, with trip ends as defined in subsection (4)(f) above.
3. To aid the county in monitoring haul truck trip frequency, applicants shall provide haul truck log information to the Public Works Director or his designee, upon request. X

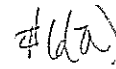
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Where one (1) or more haul route segments are shared by more than one (1) mining operation, the operators of the affected mines shall obtain public works approval of a haul route improvement and maintenance plan that addresses shared responsibilities and use of posted security in the event that one (1) or more parties fail to perform its fair-share maintenance.

CONCURRENCY REVIEW

The following facilities are regulated in the City for concurrency: water, sewer, solid waste, recreation and transportation. Concurrency review findings for each follow.

- Schools – not applicable
- Sewer – septic via Health Department Permit
- Water – potable water well per Health Department Permit
- Drainage – per FDEP permit
- Parks & rec. – not applicable
- Solid Waste – Adequate capacity exists within Indian River County's landfill. Given the limited solid waste generation from this project, the Applicant is required to have either a) scheduled solid waste and recycling pick-up through the franchised provider or b) remove all solid waste through contractual arrangement with a cleaning service.
- Transportation – The traffic impact analysis provided by the Applicant demonstrates that the surrounding roadway network can accommodate the potential traffic to be generated by the Project from a service capacity measure. The increase in truck traffic on the immediately accessed County roads has been addressed through the restoration security condition in the Development Agreement. The traffic operational aspects of the project will be reviewed with each phase.



10-4-17 WWD

**ORDINANCE
NO. 2017-31**

AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE CITY OF FELLSMERE OFFICIAL ZONING MAP TO ADD A ZONING CLASSIFICATION OF PDD-PLANNED DEVELOPMENT DISTRICT FOR LAND HAVING A COMPREHENSIVE FUTURE LAND USE MAP DESIGNATION OF LOW DENSITY MIXED USE NEIGHBORHOOD (LDMXN) CONSISTING OF 972.52 ACRES, MORE OR LESS LOCATED APPROXIMATELY 0.87 MILES NORTH OF STATE ROAD 60, EAST OF INTERSTATE 95 AND WEST AND ADJACENT TO 90TH AVENUE IN SECTIONS 15, 22, 27 AND 34, TOWNSHIP 32 SOUTH, RANGE 38 EAST, INDIAN RIVER COUNTY, FLORIDA; PROVIDING FOR RATIFICATION; PROVIDING FOR CONSISTENCY WITH COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; PROVIDING FOR ZONING; PROVIDING FOR ZONING MAP; FURTHER PROVIDING FOR SEVERABILITY; CONFLICT; AND AN EFFECTIVE DATE.

WHEREAS, Hugh Corrigan, III, Family Limited Partnership, LLLP, a Florida limited liability limited partnership and J. Pat Corrigan Family Limited Partnership, LLLP, a Florida limited liability limited partnership, the owners of the land described herein, (collectively the "Applicant") filed an Application with the City of Fellsmere to amend the City's Official Zoning Map to incorporate said land thereon as PDD-Planned Development District; and

WHEREAS, the Applicant owns 972.52 acres, more or less with a Future Land Use Map designation of Low Density Mixed Use Neighborhood (LDMXN), as described on Exhibit "A" attached hereto and by this reference made a part hereof; and

WHEREAS, the Planning and Zoning Commission/Local Planning Agency held a duly noticed public hearing on _____, 2017 and made a finding that the Planned Development District (PDD) zoning designation was consistent with the Comprehensive Plan and applicable provisions of the Land Development Code and recommended that the City Council approve the zoning request; and

WHEREAS, the City Council held duly advertised public hearings, made a finding that the PDD zoning designation was consistent with the Comprehensive Plan and applicable provisions of the Land Development Code; and

WHEREAS, the City Council has determined that the PDD zoning is in the best interest of the public health, safety, environmental and general welfare and that it is appropriate to adopt this amendment to the Official Zoning Map.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. RATIFICATION. The above recitals are hereby ratified, adopted and incorporated herein as legislative findings of the City Council.

SECTION 2. CONSISTENCY WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE. The Application to amend the City's Official Zoning Map is consistent with the Comprehensive Plan and applicable provisions of the Land Development Code of the City of Fellsmere. The following findings of facts are made:

1. The amendment is not in conflict with any applicable portions of the Land Development Code;
2. The amendment is consistent with all elements of the City of Fellsmere Comprehensive Plan;
3. The amendment is consistent with existing and proposed land uses within the area;
4. The surrounding land uses in the area of the amendment support the amendment;
5. The amendment would not result in excessive demands on public facilities, and the amendment would not exceed the capacity of such public facilities, including but not limited to transportation facilities, sewage facilities, water supply, parks, drainage, schools, solid waste, mass transit and emergency medical facilities;
6. The amendment would not result in significant adverse impacts on the natural environment;
7. The amendment would result in an orderly and logical development pattern;
8. The amendment would not be in conflict with the public interest, and is in harmony with the purpose and interest of the Land Development Code.

SECTION 3. ZONING. The following described land is hereby given a City Zoning Classification of PDD-Planned Development District.

LEGAL DESCRIPTION

See Exhibit "A" attached hereto and by this reference made a part hereof.

SKETCH OF LEGAL DESCRIPTION

See Exhibit "A" attached hereto.

SECTION 4. ZONING MAP. The Official Zoning Map of the City shall be amended to include the subject land and reflect the designated zoning district.

SECTION 5. SEVERABILITY. If any section, part of a sentence, phrase or word of this Ordinance is for any reason held to be unconstitutional, inoperative or void, such holdings shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part.

SECTION 6. CONFLICT. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of conflict.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect concurrently with the effective date of Resolution No. 2017-30. If Resolution No. 2017-30 does not become effective, this Ordinance shall automatically become void and of no further force or effect.

The foregoing Ordinance was moved for adoption by Council Member _____ . The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Mayor, Joel Tyson	_____
Council Member Fernando Herrera	_____
Council Member Gerald J. Piper	_____
Council Member Sara J. Savage	_____
Council Member Jessica Salgado	_____

The Mayor thereupon declared this Ordinance fully passed and adopted this _____ day of _____, 2017.

CITY OF FELLSMERE, FLORIDA

ATTEST:

Joel Tyson, Mayor

Deborah C. Krages, CMC, City Clerk

I HEREBY CERTIFY that Notice of the public hearing on this Ordinance was published in the Press Journal, as required by State Statute, that the foregoing Ordinance was duly passed and adopted on the _____ day of _____, 2017, and the first reading was held on the _____ day of _____, 2017, and the public hearing was held on the _____ day of _____, 2017, and the second and final public hearing and reading was held on the _____ day of _____, 2017.

Deborah C. Krages, CMC, City Clerk


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTIONS 15, 22, 27, AND 34, TOWNSHIP 32 SOUTH, RANGE 38 EAST, INDIAN RIVER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 22; THENCE NORTH 89°39'39" WEST, A DISTANCE OF 30.00 FEET TO AN INTERSECTION WITH A LINE LYING 30.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SECTION 22 AND THE **POINT OF BEGINNING**; THENCE SOUTH 00°18'32" WEST, ALONG SAID LINE, A DISTANCE OF 5313.52 FEET TO THE SOUTH LINE OF SECTION 22; THENCE SOUTH 00°09'38" WEST, ALONG A LINE LYING 30.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SECTION 27, A DISTANCE OF 5307.39 FEET TO THE SOUTH LINE OF SAID SECTION 27; THENCE SOUTH 00°21'44" WEST, ALONG A LINE LYING 30.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SECTION 34, A DISTANCE OF 3372.75 FEET; THENCE SOUTH 89°47'43" WEST DEPARTING SAID PARALLEL LINE, A DISTANCE OF 1062.81 FEET; THENCE NORTH 42°45'38" WEST, A DISTANCE OF 1184.09 FEET;
 THENCE NORTH 25°01'09" WEST, A DISTANCE OF 991.58 FEET;
 THENCE NORTH 09°39'30" WEST, A DISTANCE OF 647.62 FEET;
 THENCE NORTH 00°09'48" EAST, A DISTANCE OF 1760.89 FEET;
 THENCE NORTH 09°04'00" WEST, A DISTANCE OF 1550.82 FEET;
 THENCE NORTH 12°32'43" WEST, A DISTANCE OF 748.52 FEET;
 THENCE NORTH 30°04'41" WEST, A DISTANCE OF 522.20 FEET;
 THENCE NORTH 17°10'57" WEST, A DISTANCE OF 1171.76 FEET;
 THENCE NORTH 00°00'00" EAST, A DISTANCE OF 3207.25 FEET;
 THENCE NORTH 01°25'46" EAST, A DISTANCE OF 3384.81 FEET;
 THENCE SOUTH 89°33'06" EAST, A DISTANCE OF 3387.50 FEET TO THE INTERSECTION WITH A LINE LYING 30.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SECTION 15; THENCE SOUTH 00°14'48" WEST, ALONG SAID LINE, A DISTANCE OF 567.86 FEET TO THE NORTH LINE OF SAID SECTION 22 AND THE **POINT OF BEGINNING**;

CONTAINING 972.52 ACRES MORE OR LESS

1	REVISE SKETCH & LEGAL	6/30/17
NO.	REVISION	DATE



**NORTHSTAR
GEOMATICS**
 617 NW BAKER ROAD
 PO BOX 2371, STUART, FLORIDA 34995
 (772)781-6400 (772)781-6462 FAX
 LICENSED BUSINESS NO. 7217

SKETCH AND DESCRIPTION FOR MINING APPLICATION FOR
STEWART MATERIALS
 SECTIONS 15, 22, 27, AND 34,
 TOWNSHIP 32 SOUTH, RANGE 38 EAST
 INDIAN RIVER COUNTY, FLORIDA

SHEET NO.
1
 OF 5
 PROJECT #
12-034.3

SURVEYOR'S NOTES

1. BEARING BASIS IS THE NORTH LINE OF SECTION 22, TOWNSHIP 32 SOUTH, RANGE 38 EAST, HAVING A BEARING OF SOUTH 89°39'39" WEST. AND ALL OTHER BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
2. THIS LEGAL DESCRIPTION SHALL NOT BE VALID UNLESS PROVIDED IN ITS ENTIRETY CONSISTING OF 5 SHEETS, WITH SHEETS 3, 4, AND 5 BEING THE SKETCH OF DESCRIPTION.

THIS IS NOT A BOUNDARY SURVEY

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS SKETCH AND LEGAL DESCRIPTION COMPLIES WITH THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 5J-17.050 - 17.052.



GREGORY S. FLEMING, P.S.M.
FLORIDA REGISTRATION NO. 4350

10/3/17
DATE



**NORTHSTAR
GEOMATICS**

617 NW BAKER ROAD
PO BOX 2371, STUART, FLORIDA 34995
(772)781-6400 (772)781-6462 FAX
LICENSED BUSINESS NO. 7217

SKETCH AND DESCRIPTION FOR MINING APPLICATION FOR
STEWART MATERIALS

SECTIONS 15, 22, 27, AND 34,
TOWNSHIP 32 SOUTH, RANGE 38 EAST
INDIAN RIVER COUNTY, FLORIDA

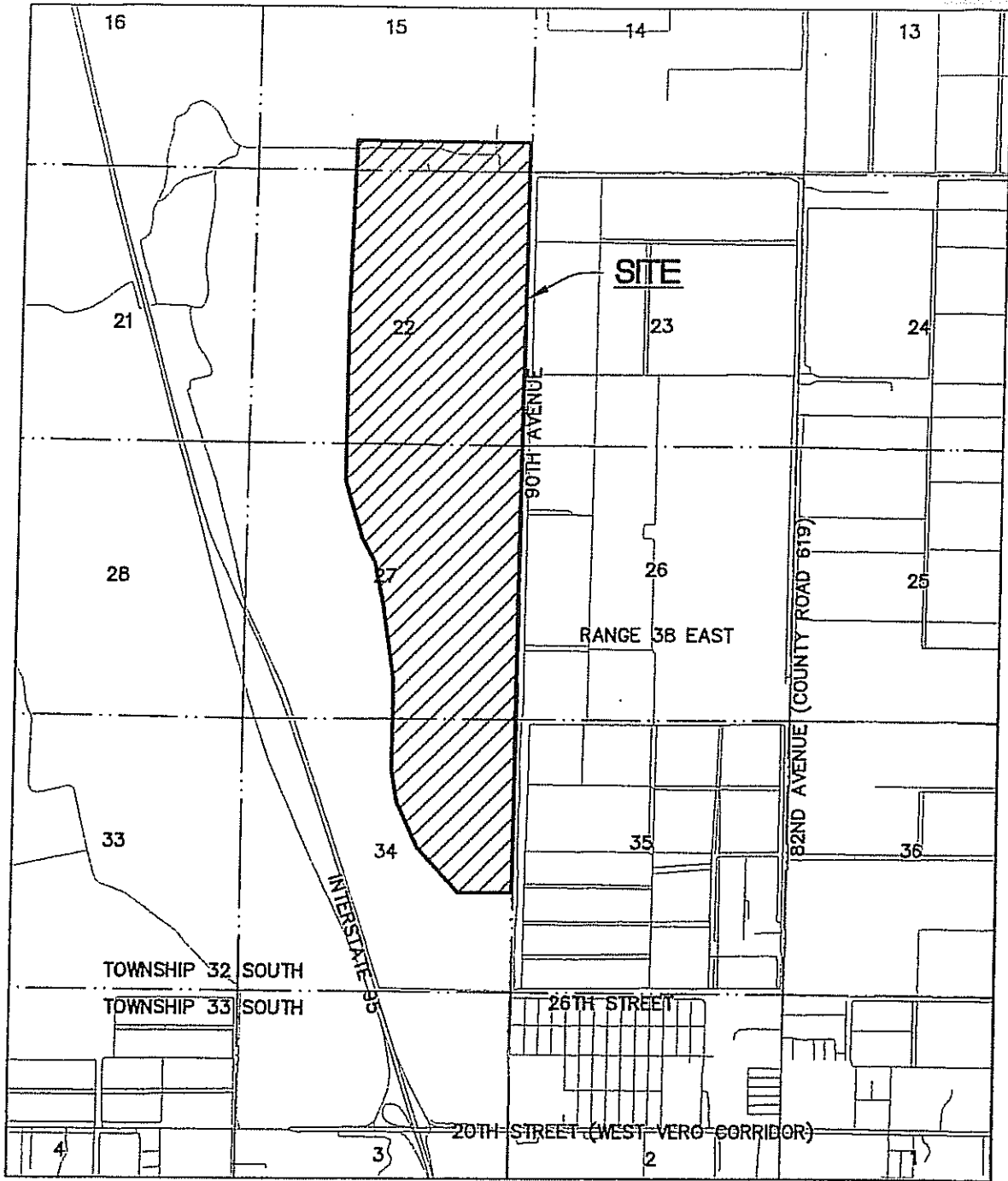
SHEET NO.

2

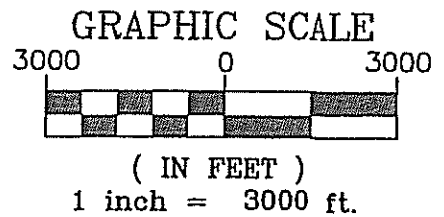
OF 5

PROJECT #

12-034.3



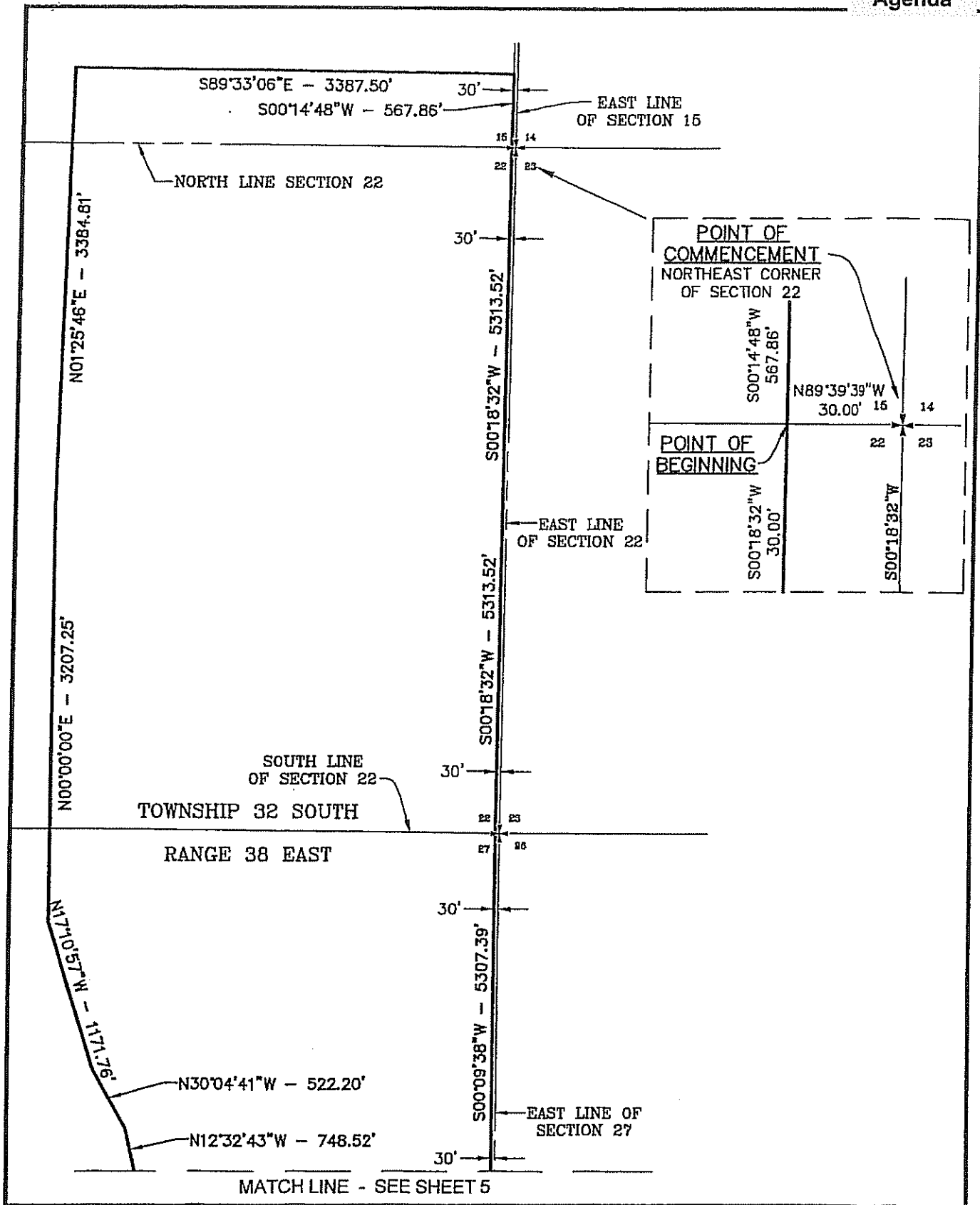
LOCATION MAP



NORTHSTAR GEOMATICS
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LICENSED BUSINESS NO. 7217

SKETCH AND DESCRIPTION FOR MINING APPLICATION FOR
STEWART MATERIALS
SECTIONS 15, 22, 27, AND 34,
TOWNSHIP 32 SOUTH, RANGE 38 EAST
INDIAN RIVER COUNTY, FLORIDA

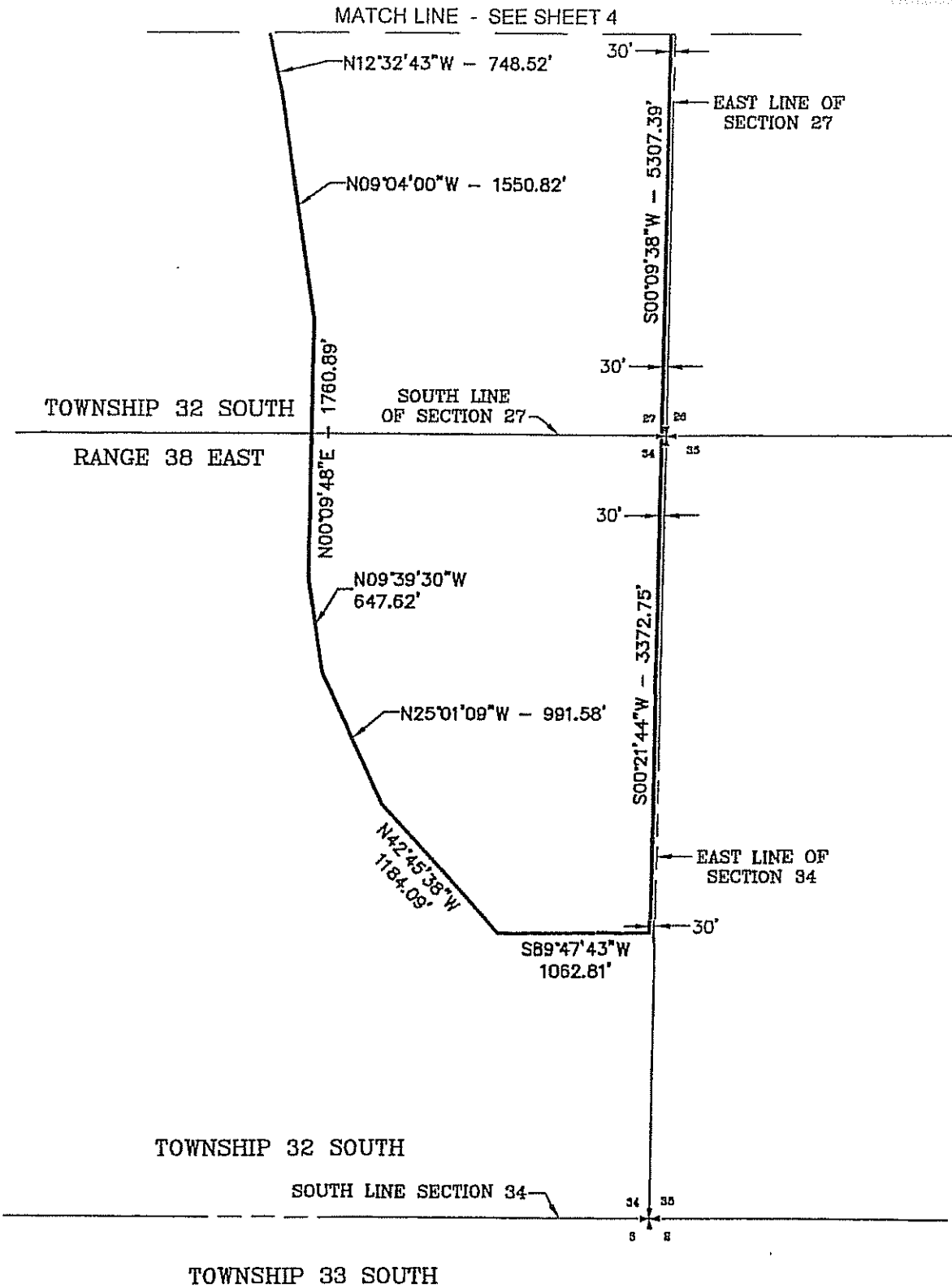
SHEET NO.
3
OF 5
PROJECT #
12-034.3



NORTHSTAR GEOMATICS
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SKETCH AND DESCRIPTION FOR MINING APPLICATION FOR
STEWART MATERIALS
 SECTIONS 15, 22, 27, AND 34,
 TOWNSHIP 32 SOUTH, RANGE 38 EAST
 INDIAN RIVER COUNTY, FLORIDA

SHEET NO.
4
 OF 5
 PROJECT #
12-034.3



1	REVISE SKETCH & LEGAL	6/30/17
NO.	REVISION	DATE

NORTHSTAR GEOMATICS
 617 NW BAKER ROAD
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 (772)781-6400 (772)781-6462 FAX
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SKETCH AND DESCRIPTION FOR MINING APPLICATION FOR
STEWART MATERIALS
 SECTIONS 15, 22, 27, AND 34,
 TOWNSHIP 32 SOUTH, RANGE 38 EAST
 INDIAN RIVER COUNTY, FLORIDA

SHEET NO.
5
 OF 5
 PROJECT #
12-034.3

End of agenda item.

Return to agenda.

RESOLUTION NO. 2017-30

A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, APPROVING THE DEVELOPMENT AGREEMENT FOR A PLANNED DEVELOPMENT KNOWN AS THE CORRIGAN RANCH MINE; PROVIDING FOR RATIFICATION; PROVIDING FOR LEGISLATIVE ACT; PROVIDING FOR FINDINGS; PROVIDING FOR AUTHORIZATION FOR THE MAYOR TO SIGN THE DEVELOPMENT AGREEMENT; AND FURTHER PROVIDING FOR SEVERABILITY; REPEAL OF CONFLICTING PROVISIONS; AND AN EFFECTIVE DATE.

WHEREAS, Hugh Corrigan, III, Family Limited Partnership, LLLP, a Florida limited liability limited partnership and J. Pat Corrigan Family Limited Partnership, LLLP, a Florida limited liability limited partnership, the owners of the land described herein, (collectively the "Owner") has requested the City of Fellsmere to approve a Development Agreement for a Planned Development known as the Corrigan Ranch Mine; and

WHEREAS, the Owner submitted an Application for Planned Development District zoning and a Preliminary Development Plan and Final Development Plan Phase I for the land described therein (the "Property"); and

WHEREAS, the Planning and Zoning Commission/Local Planning Agency held a duly noticed public hearing on _____, 2017 and made a finding that the Development Agreement was consistent with the Comprehensive Plan and applicable provisions of the Land Development Code and recommended that the City Council approve the Development Agreement; and

WHEREAS, the City Council held two (2) duly advertised public hearings, made a finding that the Development Agreement was consistent with the Comprehensive Plan and applicable provisions of the Land Development Code; and

WHEREAS, the City Council has determined that at this time the Development Agreement is in the best interest of the City and that it is appropriate to approve the Development Agreement.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Fellsmere, Indian River County, Florida, as follows:

SECTION 1. RATIFICATION. The above recitals are hereby ratified, confirmed and adopted as legislative findings by the City Council.

SECTION 2. LEGISLATIVE ACT. The Development Agreement is a legislative act of the City Council in furtherance of its powers to plan and regulate development and as such is not subject to termination in the event of any foreclosure action that may result from any existing liens or mortgages on the Property.

SECTION 3. FINDINGS. The following findings of fact are made:

- a. The development proposed in the Development Agreement is consistent with the Comprehensive Plan.

- b. The development proposed in the Development Agreement is consistent with the applicable provisions of the Land Development Code.

SECTION 4. AUTHORIZATION. The Owner prepared a Development Agreement in accordance with the provisions of Section 17.22 of the Land Development Code. The Development Agreement attached hereto as Exhibit "A" and the Agreement for Voluntary Mining Contribution attached hereto as Exhibit "B" are approved. The Mayor and City Clerk are hereby authorized to sign the Development Agreement and Agreement for Voluntary Mining Contribution on behalf of the City. The City Clerk is hereby directed to record the original Development Agreement with the Clerk of the Circuit Court, Indian River County, Florida within fourteen (14) days after signing by all parties and submit a copy of the recorded Development Agreement to the Department of Economic Opportunity within fourteen (14) days after the Development Agreement is recorded.

SECTION 5. SEVERABILITY. If any section, part of a sentence, phrase or word of this Resolution is for any reason held to be unconstitutional, inoperative or void, such holdings shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this Resolution without such unconstitutional, invalid or inoperative part.

SECTION 6. REPEAL OF CONFLICTING PROVISIONS. All previous resolutions or parts thereof, which conflict with the provisions of this Resolution, to the extent of such conflict, are superseded and repealed.

SECTION 7. EFFECTIVE DATE. This Resolution shall take effect upon receipt by the City Clerk of the Development Agreement fully executed by _____, 2017. In the event a fully executed Development Agreement is not received by the City Clerk by _____, 2017, this Resolution shall automatically become void and of no further force or effect.

The foregoing Resolution was moved for adoption by Council Member _____ . The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Mayor, Joel Tyson	_____
Council Member Fernando Herrera	_____
Council Member Gerald J. Piper	_____
Council Member Sara J. Savage	_____
Council Member Jessica Salgado	_____

The Mayor thereupon declared this Resolution duly passed and adopted this _____ day of _____, 2017.

CITY OF FELLOSMERE, FLORIDA

ATTEST:

Joel Tyson, Mayor

Deborah C. Krages, CMC, City Clerk

I HEREBY CERTIFY that Notice of the public hearings on this Resolution was published in the Press Journal, as required by the Land Development Code, that the foregoing Resolution was duly passed and adopted on the _____ day of _____, 2017, and the first reading was held on the ____ day of _____, 2017 and the first public hearing was held on the ____ day of _____, 2015, and the second and final public hearing and reading was held on the _____ day of _____, 2017.

Deborah C. Krages, CMC, City Clerk

DEVELOPMENT AGREEMENT
BETWEEN THE
CITY OF FELLOSMERE, FLORIDA
AND
HUGH CORRIGAN, III, FAMILY LIMITED PARTNERSHIP, LLLP
AND
J. PAT CORRIGAN FAMILY LIMITED PARTNERSHIP, LLLP
FOR
CORRIGAN RANCH MINE

EXHIBIT "A"
TO
RESOLUTION NO. 2017-30

DEVELOPMENT AGREEMENT

This Development Agreement is made this ____ day of _____, 2017, to be effective upon the Effective Date of Ordinance No. 2017-____, between the City of Fellsmere, Florida (the "City") and Hugh Corrigan, III, Family Limited Partnership, LLLP a Florida limited liability limited partnership and J. Pat Corrigan Family Limited Partnership, LLLP, a Florida, limited liability limited partnership and their successors or assigns in title or interest (collectively the "Owner" or "Applicant").

GENERAL FINDINGS

A: That the Owner is allowed to perform commercial mining activities within the Property pursuant to the Comprehensive Plan 2035, Policy FLUE B-22.9.

B: That the application for a Development Agreement for the Owner was duly and properly filed with the City of Fellsmere as required by the City's Land Development Code.

C: That all fees and costs which are by ordinance and resolution required to be borne and paid by the applicant will be billed by the City to the Owner and paid within forty-five (45) days from the date of billing receipt.

D: That the applicant is the Owner of 972.52 acres more or less, (the "Land" or "Property"), situated in the City. The Land is being developed as the Corrigan Ranch Mine (the "Project"). This Land is described more particularly in the legal description and sketch, a true copy of which are attached hereto as Exhibit "A".

E: That the Owner has certified to the City compliance with the "Public Notice" requirements of the City's Land Development Code.

DEVELOPMENT AGREEMENT

Section 1.0 Development Concept. The above General Findings are incorporated herein. The Property shall be developed as a planned development for a mining operation that generally conforms to the Preliminary Development Plan as adopted by Resolution No. 2017-31. This Development Agreement and the Preliminary Development Plan shall govern the development of the Property as a planned development and shall regulate the future use of the Property during their respective existence.

Section 1.1 Preliminary Development Plan. The Preliminary Development Plan shall consist of the Preliminary Development Plan prepared by _____ dated _____, 2017.

Section 1.2 Final Development Plan. After the Preliminary Development Plan is approved, and prior to issuance of any permits for construction, including clearing and grading, a Final Development Plan for a phase of the Project shall be prepared and submitted for review and approval to the City of Fellsmere in the manner required by the City's Land Development Code. The overall project may be developed in phases as specified in Section 3.0.

Section 1.3 Performance Guarantees. Performance guarantees for compliance and restoration will be provided at the time of Final Development Plan approval in accordance with the City's Land Development Code.

Section 1.4 Enforcement. In the event of any violation of the provisions contained in this Development Agreement, as determined at a hearing before the City Council, with notice to the Owner and an opportunity for the Owner to be heard by the City Council, the City shall have the right to refuse to issue any further permits or cease and desist orders as the case may be for the Owner's Property until such violation(s) is/are corrected and this Development Agreement may be further enforced by all appropriate sections of the Code of Ordinances and Land Development Code of the City, including, but not limited to, code enforcement action. However, in the event of a violation of paragraph C of the General Findings, regarding payment to the City, as determined at a hearing before the City Council, with notice to the Owner and an opportunity for the Owner to be heard by the City Council, the City shall also have the right to rescind this Development Agreement.

Section 2.0 Unified Ownership. The Applicant or their successors in title shall maintain unified ownership of the Land until approval of a final plat or other legally permissible division of the Property dividing or subdividing all or portions of the Property. Subsequent owners of the Land or portions of the Land shall be bound by this Development Agreement and the Preliminary Development Plan and may request, subject to City Council approval, amendment of this Development Agreement and Preliminary Development Plan for that portion of the Land under their ownership without requiring consent of other owners within the project to submit the amendment. The terms of the Annexation Agreement between the City and the Owner shall also govern the disposition of any future transfer(s) of ownership, relative to both the requisite assumption of liability by the transferee and related release of transferor liability.

Section 3.0 Phases of Development. The Land shall be developed in phases consistent with the Preliminary Development Plan.

The overall PD area consists of 972.52 acres as shown in the Exhibit "A". Within the PD boundary, the mine operation will be conducted in five phases (Sheet 3 of the attached Preliminary Development Plan) over a twenty year timeline. Excavation will occur in each of the five phases and is anticipated to progress from north to south. Mining and mining related disturbance will be initiated in Phase 1, which is the northernmost phase, and progress in a southerly direction. Although the project has been planned for and will

operate in phases, it is anticipated that two (2) consecutive phases may be disturbed or mined at any given time during the life of the mine.

The project area includes five mining phases (Sheet 3 of the attached Mine Site Plan), totaling 972.52 acres, with a total of 257.4 acres to be mined. The following table summarizes the total acreage of each phase as well as the acreage to be mined for each phase.

Phase	Total Acreage	Mining Acreage
1	261.60	63.9
2	194.96	53.9
3	186.83	36.5
4	183.71	39.8
5	145.42	63.3**
Totals	972.52	257.4

** Phase 5 consists of two separate excavation areas – 47.0 and 16.3 acres, respectively.

Recharge canals will be constructed around the mining areas associated with each phase prior to excavation. These canals serve to contain stormwater runoff from within the active mining areas, and to protect adjacent wetlands, and ground and surface water resources from potential impacts during mining. A minimum setback of 200 feet where practicable and up to 500 feet will be maintained between excavation areas and the recharge canal to ensure optimal protection of wetlands and shallow wells that occur adjacent to the active excavation areas.

Processing and materials storage for each phase will occur at one of three plant locations situated within Phases 1, 2, and 5. The first 20-acre plant site will be installed in association with Phase 1 of mining, after which it will be relocated to Phase 2, and ultimately to the Phase 5 area in support of mining as it progresses from north to south. The plant sites in Phases 2 and 5 will each occupy approximately 10 acres of Land (Sheet 3 of the attached Preliminary Development Plan).

Subsequent development phases will be determined by market conditions and detailed through the Final Development Plan approval process.

Section 4.0 Land Uses/Permits.

Section 4.1 Future Land Use Map. The Land is designated as Low Density Mixed Use Neighborhood (LDMXN) on City’s Future Land Use Map. The Land is being rezoned Planned Development District (PDD) simultaneously with the approval of this Development Agreement.

Section 4.2 Use of Land. The development use of the Land is mining. The only structures allowed to be constructed onsite will be associated with the mining operation. Structures which will be associated with the mining operation include,

but are not limited to, an office, scale house, maintenance shop, storage buildings, parking areas, sorters and stackers. The structures shall be temporary in nature and removed upon close out of the mining operations.

Section 4.3 Amendment. Any amendment to the uses listed in Section 4.2 above shall be considered a minor amendment to the Project, provided they are associated with the mining operation and are temporary in nature.

Section 4.4 Local Development Permits.

Development Permits obtained by Owner- All development permits shall be obtained at the sole cost of the Owner and, in the event that any such development permits are not received, no further development of the Property shall be allowed until such time as the City Council of the City of Fellsmere has reviewed the matter and determined whether or not to terminate this Development Agreement, or to modify it in a manner consistent with the public interest and the City of Fellsmere Comprehensive Plan.

- (1) FDEP, ACOE, SJRWMD, EPA, and/or other governmental permissions - Copies of FDEP Environmental Resource Permit (ERP) No. 341986-001 and SJRWMD Consumptive Use Permit (CUP) No. 145528-1 have been attached. ACOE Permit No. SAJ-2016-00908 (IPJPF) is pending and will be provided upon issuance.
- (2) Indian River County Health Department for water and sewer service will be obtained prior to the City approval of the Construction Plans.
- (3) Indian River County ROW Permit for improvements to 90th Avenue will be obtained prior to the City approval of the Construction Plans.
- (4) Preliminary Development Plan - A Preliminary Development Plan permit for all phases is being approved simultaneously with this Development Agreement.
- (5) Final Development Plan - A Final Development Plan for Phase 1 is being approved simultaneously with the Preliminary Development Plan. A Final Development Plan for all subsequent phases will be obtained for all phases individually or collectively.
- (6) Construction plan approval - Construction Plan approval will be obtained for all phases.
- (7) Floodplain development approval - Floodplain development approval will be obtained for all phases concurrent with the approval of the Final Development Plan for each phase.
- (8) Tree removal permit - Most of the site had been cleared and converted to pasture. Those trees which are found onsite consist primarily of cabbage palms which are not a protected tree per Section 11.7.G. of the City's Land Development Code (LDC). For protected trees which are present, a tree removal permit will be obtained and mitigated on a phase by phase basis. The specific means of providing any required financial security for mitigation, or payments in lieu of mitigation plantings, will be addressed in the tree removal permit.