

LEVEL 4 – NARRATIVE

LDC TEXT AMENDMENT

POLK COUNTY, FL

**Submitted by:
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I. Request

This request is to amend Section 227 and 303 of the Polk County (County) Land Development Code (LDC) to exempt fill material excavation (colloquially known as “borrow pits”) associated with site management for a phosphate mine or phosphogypsum (“gypsum”) stack from non-phosphate mining requirements. To qualify as a County LDC exemption, these borrow pits will require approval from the Florida Department of Environmental Protection (FDEP) and must be greater than 1,000 feet from property developed with residential uses.

II. Land Development Code (LDC)

Phosphate mines and gypsum stacks are only permissible within the Phosphate Mining (PM) land use district and with a Level 4 Conditional Use (C4) approval. The Development Review Committee (DRC), Planning Commission (PC), and Board of County Commissioners (BOCC), all review C4 applications.¹ These C4 phosphate industry related approvals generally require subsequent Level 2 approvals for specific development phases. In addition to County LDC requirements, phosphate mines must also adhere to the County Phosphate Mining Ordinance (Ord. 88-19). The Phosphate Mining Ordinance outlines specific requirements for phosphate mining, including reclamation, reporting, and siting requirements (i.e. setbacks/buffering).

The County LDC requires a Level 3 Conditional Use (C3) for non-phosphate mines in all standard land use districts, with the exception of the Preservation land use district.² The County LDC provides specific exemptions from C3 requirements for the addition or removal of soil.³ One example of a LDC exemption is soil excavation in conjunction with an existing County approval for a site grading operation for development. This request is to amend the County LDC to exempt borrow pits associated with site management for a gypsum stack or phosphate mine from non-phosphate mining requirements. The use of borrow pits is often necessary for the construction and operation of phosphate industry related uses. Adding an exemption precludes a redundancy in County review for a previously approved site with an existing, more intensive use.

Phosphate related uses are only permissible on property within the PM land use district and, therefore, are already separated from residential areas. However, to ensure ongoing compatibility and to prevent any potential impact on residential properties, this text amendment requires a significant distance separation of 1,000-feet from residential areas. All fill material will remain on-site, eliminating any potential off-site impacts due to hauling of fill material off-site. This proposed LDC exemption will also require these borrow pits to have approval from FDEP, as is already required for excavation activities on property approved for phosphate mines and gypsum stacks.

III. Comprehensive Plan (Plan)

The following County Comprehensive Plan (Plan) Objectives and Policies are supportive

¹ [Sec. 205.E. of the LDC](#) and [Sec. 907.B. of the LDC](#)

² [Sec. 205 of the LDC](#)

³ [Sec. 227 of the LDC](#)

of the request.

POLICY 2.109-A18: *The purpose of the Phosphate Mining (PM) land use district is for phosphate mining operations, phosphate mining support facilities, and other uses that are compatible with and related to phosphate mining and its allied uses.*

Discussion: The request meets the intent of this policy, which supports allied uses in connection to phosphate industry operations. Borrow pits are often necessary for site management of a gypsum stack or phosphate mine.

POLICY 2.114-A1: CHARACTERISTICS - *Phosphate Mining areas are generally characterized by existing or proposed phosphate-mining operations, phosphate-mining support facilities, and non-reclaimed phosphate-mined areas.*

Discussion: The request is to amend the County LDC to exempt borrow pits associated with site management for an approved gypsum stack or phosphate mine from non-phosphate mining requirements. Therefore, these borrow pits which are connected to existing phosphate-related uses are consistent with this policy.

POLICY 2.114-A3: PERMITTED ACTIVITIES - *The following activities shall be permitted within the Phosphate Mining land use category as mapped pursuant to Policy 2.114-A2:*

- a. Phosphate mining and allied industries;*
- b. Land reclamation;*
- c. Agriculture and Farmworker housing under specific design parameters listed in the Land Development Code not to exceed an intensity of sixteen (16) workers per acre;*
- d. Other land uses with conditional approval which are compatible and related with the extraction and processing of phosphate; and*
- e. Subject to the adoption of a Comprehensive Plan amendment, any activities permitted within the following land use designations, which are appropriate for the redevelopment of lands formally utilized for phosphate mining operations and which demonstrate compliance with the Comprehensive Plan criteria for each use:*

- 1. Preservation.*
- 2. Recreation and Open Space.*
- 3. Leisure/Recreation.*
- 4. Institutional.*
- 5. Rural Cluster Centers.*
- 6. Tourism Commercial Centers.*
- 7. Business Park Centers.*
- 8. Industrial.*
- 9. Rural Mixed-Use Developments.*
- 10. New Communities.*
- 11. Agricultural/Residential Rural only.*

Discussion: The request is amend the County LDC to exempt borrow pits associated with site management for an approved gypsum stack or phosphate mine from non-phosphate mining requirements. These borrow pits are ancillary and allied with the phosphate

industry.

POLICY 2.125-A1: IDENTIFICATION OF SPECIALIZED USES - *The Polk County Plan hereby identifies the following specialized uses, which are to be developed in accordance with the Land Development Code:*

- a. isolated convenience stores*
- b. transitional areas*
- c. utilities*
- d. community facilities*
- e. special residential uses (greater than 15 DU/AC)*
- f. non-phosphate mining*
- g. residentially based mixed-use developments*
- h. non-certified electric-power generating facilities*
- i. certified electric-power generation facilities*
- j. hazardous-waste treatment facilities*
- k. agricultural-support activities*
- l. Planned Development (PD)*
- m. residential infill development*
- n. solar electric-power generation facilities*
- o. solid waste management facilities*

Discussion: This Policy identifies specialized uses to be developed in accordance with the LDC, which includes non-phosphate mining. Approval of this request allows for an exemption within the LDC for borrow pits associated with site management of a gypsum stack or phosphate mine. In turn, this eliminates redundancy in County review for a previously approved site with an already existing, more intensive use related to the phosphate industry. The intent of this policy supports the request.

POLICY 2.125-G1: NON-PHOSPHATE MINING PERMITTED USES. *Mining of the following minerals shall be permitted throughout the County in all land use classifications, subject to County approval:*

- a. lime rock*
- b. sand*
- c. peat*
- d. clay*
- e. soil*

Discussion: In addition to the County's LDC, this Policy permits non-phosphate mining in all land use classifications. The request is associated with the PM land use district and therefore, meets the intent of the Policy.

POLICY 2.125-G3: DEVELOPMENT REGULATIONS - *Polk County shall implement the evaluation criteria for determining when non-phosphate mining is compatible with existing land uses and proposed land use classifications as established within the Land Development Code. At a minimum, these criteria shall include the following standards:*

- a. minimize adverse impact on environmentally sensitive lands;*

b. maximize the ability to restore or mitigate environmentally sensitive lands;
c. minimize the adverse impacts of truck and heavy machinery traffic on residential streets; and
d. minimize the extent of adverse external impacts, such as noise, dust, and visual impacts on nonindustrial areas.

Discussion: This request allows for an exemption within the LDC for borrow pits associated with site management of a gypsum stack or phosphate mine. This request requires FDEP approval for these borrow pits. Sites with existing phosphate related uses, such as gypsum stacks or phosphate mines, also have prior FDEP approval. FDEP approvals ensure environmentally sensitive lands are properly reviewed and mitigation is provided as necessary. All fill material will remain on-site, eliminating any potential off-site impacts due to hauling of fill material on streets. Phosphate related uses are only permissible within the PM land use district and, therefore, are already separated from residential areas. However, to ensure ongoing compatibility and to prevent any potential impact on residential properties, these borrow pits require a significant distance separation of 1,000-feet from residential areas. There will be no adverse impacts to surrounding properties due to the nature and distance of existing permissible phosphate industry uses from residential uses. The proposed LDC text amendment adheres to this policy, which in turn, is supportive of this request.

IV. Conclusion

Borrow pits are often necessary to support construction activities at approved phosphate-related facilities, including a phosphate mine or gypsum stack permitted by the LDC or Ordinance 88-19. Exempting non-phosphate borrow pits associated with the phosphate industry from County LDC requirements eliminates redundancy in the review of properties with more intensive and pre-existing approvals related to the phosphate industry. The proposed LDC text amendment language provides additional safeguards for residential properties and requires FDEP approval. The request is consistent with the Objectives and Policies of the County Plan.