

Staff Report

Subject: Rezoning (Fourth District)
Author: Katie Dunnigan, Zoning Manager
Department: Development Services
Meeting Date: December 06, 2022
Item Description: **The McGraley Co.** as Agent for **Richard Hall** requests to **rezone** 27.17 of 64.8 acres from **AR-1** to **I-1**, to allow for a surface mine. Located on Horse Pen Road **Map# 394 Parcels# 29 & 30**

Summary Recommendation

Staff has reviewed the application, and recommends **denial** of the request to **rezone** 27.17 of 64.8 acres from **AR-1** to **I-1**, to allow for a surface mine.

Executive Summary/Background

- The request for rezoning is a requirement of Appendix C, Article IX-Amendments to Map or Text, Section 9. Zoning districts are described in Article V-Uses Permitted in Districts. Pursuant to *Sec. 3.17.3.3*, excavation activity that requires a state mining permit must be located within the I-1 zoning district.
- Surface Mines are regulated by *O.C.G.A. 12-4-70* Georgia Surface Mining Act of 1968, as amended, and Georgia Rule 391-3-3. Pursuant to *O.C.G.A 12-4-75* of the Georgia Surface Mining Act, a mining land use plan (MLUP) shall be consistent with the land use in the area of the mine. Mine operators must obtain a letter from the local government stating the mine location is in zoning compliance.
- The proposed site is surrounded by agricultural and residential uses, which are supported by the future land use map. According to EPD, there are 31 permitted mines in the county.
- The proposed site has extensive wetlands coverage. Pursuant to *sec. 3.17(4)(7)*, all wetlands impacts must be permitted by the USACE.
- The proposed surface mine site has frontage on Horse Pen Road, which is not a designated truck route.
- The applicant has submitted an application for Map/Parcel 394-30 for a pond less than one acre in size. The submitted site plan shows the proposed pond inside the area to be mined.
- At the October 17, 2022 Planning Board meeting, Brad Smith made a motion to **approve** the request to **rezone** 65.29 of 97.36 acres from **AR-1** to **I-1**, to allow for a surface mine, with the following conditions:
 1. This rezoning allows a surface mine only. No other I-1 uses are allowed.
 2. A wetlands delineation and the state mining permit shall be submitted to Development Services.
 3. Applicant shall meet with the county engineer to set the scope of the Traffic Impact Assessment.
 4. Applicant shall obtain a Timber Permit prior to removal of any trees outside the buffer area.
 5. The surface mine site shall meet the requirements of *Section 3.17- Excavation, mining, ponds, and fills of land and/or state federal jurisdictional waters or wetlands, Section 3.17.5* Surface Mine Operations – Road Maintenance Requirements, and *Sec. 74-8* Designated Truck Routes.
 6. The applicant shall notify Development Services at the time of final reclamation of the surface mine and close-out of this mining operation. Upon the determination of the Department of Natural Resources that the affected lands have been reclaimed in an acceptable manner, the applicant shall rezone the property to AR-1.
- The motion was seconded by Alan Zipperer and carried unanimously.
- At the November 1, 2022 Board of Commissioners meeting, Commissioner Roger Burdette made a motion to table the request to rezone to the November 15, 2022 Board of Commissioners meeting, in order to allow Staff time to evaluate active surface mines and their impact, and to recommend conditions to address concerns raised by constituents.
- The motion was seconded by Commissioner Forrest Floyd and carried unanimously.
- Staff has added conditions 7-9 to Alternative 1 in response to the tabling.

Alternatives

1. **Approve** the request to **rezone** 27.17 of 64.8 acres from **AR-1** to **I-1** for a surface mine, with the following conditions:
 1. This rezoning allows a surface mine only. No other I-1 uses are allowed.
 2. A wetlands delineation and the state mining permit shall be submitted to Development Services.
 3. Applicant shall meet with the county engineer to set the scope of the Traffic Impact Assessment.
 4. Applicant shall obtain a Timber Permit prior to removal of any trees outside the buffer area.
 5. The surface mine site shall meet the requirements of *Section 3.17- Excavation, mining, ponds, and fills of land and/or state federal jurisdictional waters or wetlands, Section 3.17.5 Surface Mine Operations – Road Maintenance Requirements, and Sec. 74-8 Designated Truck Routes.*
 6. The applicant shall notify Development Services at the time of final reclamation of the surface mine and close-out of this mining operation. Upon the determination of the Department of Natural Resources that the affected lands have been reclaimed in an acceptable manner, the applicant shall rezone the property to AR-1.
 7. No digging or hauling activities shall take place except between the hours of 8:00a.m. and 5:00 p.m. Monday through Friday.
 8. The applicant shall construct a 10' high earthen berm around the perimeter of mining operations.
 9. If notification of satisfactory final reclamation and close-out is not provided to Development Services after 10 years, I-1 zoning must be re-approved by the Board of Commissioners.

2. **Deny** the request to **rezone** 27.17 of 64.8 acres from **AR-1** to **I-1**.

Recommended Alternative: 2

Department Review: Development Services

Attachments: 1. Rezoning application and checklist
3. Ownership certificate/authorization

Other Alternatives: 1

FUNDING: N/A

3. Plat
4. Aerial photograph
5. Deed