

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LEVY COUNTY, FLORIDA**

**PETITION NO. SE 23-01** (the "Petition") requesting a Special Exception pursuant to Sec. 50-719 titled "Mining and excavation of minerals, resources, or natural resources, and site reclamation" of the Levy County Land Development Code to allow a sand mine (no blasting) on approximately 400 acres of land (the "Mine Parcels") located in Section 35, Township 12 South, Range 17 East with access to County Road 337 provided through approximately 714 acres of land (the "Access Parcels") to the South and West of the Mine Parcels, all located within Levy County Florida. The Mine Parcels and Access Parcels are collectively referred to as the "Property."

**Project Name:** 3RT Sand Mine

**Parcel ID Numbers for the Mine Parcels:** 0359701600, 0359700400, 0359700000 and 0359700300

**Parcel ID Numbers for the Access Parcels:** 0360400600, 0360400000, 036040040B, 036040040A, 0360400400, 0360400500, 0360600500, 0360600300, 0360600000, 0359400000, and 0359200000.

**Property Owners:** Ryan Thomas (owner of the Mine Parcels and Access Parcels 0360400600, 0360400000, 036040040A, 0360400400, 0360400500 and 0360600500) and Lee Thomas Jr. (owner of Access Parcels 036040040B, 0360600300, 0360600000, 0359400000 and 0359200000) with consent given by Janet Dean (as to her life estate interest in 3.195 acres within Access Parcel 0359400000)

**Applicant:** Ryan Thomas, by and through his agent DNM Engineering Associates, Inc.

**Current Land Use Designation:** all parcels are Agricultural/Rural Residential (A/RR), except for access parcels 0359400000 and 0359200000 which are Rural Residential (RR)

**Current Zoning Designation:** all parcels are Agricultural/Rural Residential (A/RR), except for access parcels 0359400000 and 0359200000 which are Rural Residential (RR)

**ORDER APPROVING SPECIAL EXCEPTION**

**Whereas**, by Special Exception Application dated May 16, 2023 on file in the County Planning and Zoning Department (the "Application"), the Applicant and Property Owners requested a Special Exception to allow major mining operations on the Property described and depicted on Exhibit "A;"

**Whereas**, Sec. 50-676 of the Levy County Land Development Code as existed on the date of the filing of the Application allowed major mining and excavation in the A/RR and RR Zoning Districts by Special Exception and Sec. 50-719 of the Code set forth the specific requirements for major mining;

**Whereas**, on July 10, 2023 the Levy County Planning Commission conducted a Public Hearing to consider the Petition and recommended approval with conditions to the Levy County Board of County Commissioners (the “Board”);

**Whereas**, at the request of the Applicant, processing of the application was paused to allow the Applicant to analyze the proposed conditions and to work on necessary State permits;

**Whereas**, on December 5, 2023, the Board conducted a Public Hearing to consider the Petition, reached the stage of Board deliberation and voting, and chose to continue the Public Hearing to a date and time certain of February 6, 2024 at 5pm;

**Whereas**, on February 6, 2024, the Board resumed the Public Hearing to complete its deliberation and voted to approve the Petition and directed the drafting of an Order of Approval with conditions, which the County Attorney and Planning and Zoning Director announced would be brought to the Board at the March 19, 2024 Regular Board Meeting at 9am; and

**NOW THEREFORE**, based on the testimony and evidence presented and received at the Public Hearing, the Board issues the following written order setting forth the conditions of approval for Petition No. SE23-1 (the “Order”):

**Section 1. Findings.** The Board adopts the foregoing whereas clauses and finds that the Petition is consistent with the County’s Comprehensive Plan, satisfies all applicable requirements for approval set forth in Secs. 50-796 through 50-823 of the Land Development Code regarding Special Exceptions, and Sec. 50-719 of the Land Development Code regarding Major Mining, and is further subject to the requirements, limitations and conditions set forth in this Order.

**Section 2. Purpose.** This Order authorizes development and operation of a Sand Mine by Special Exception. Other non-sand mine activities, such as agriculture, may occur on the Mine Parcels and Access Parcels and such activities are outside the scope of and are not regulated by this Order.

**Section 3. Binding Effect; Non-transferable to other property.** This Order shall run with the land (the Property) and is enforceable, jointly and severally, against the Applicant, Property Owners, and their respective parent entities, subsidiary entities, agents, officers, successors and/or assigns. This Order is not transferable to any other property. Because this Order runs with the land, the Property Owners are responsible for compliance regardless of who they authorize to construct or operate the Development

authorized by this Order. As such, all conditions are written using the term Property Owner.

**Section 4. Development Authorized; Time Limitations.**

A. Development authorized. The maximum development activity (the “Development”) authorized by this Order is:

- 1) Prior to commencement of mining activity, the Property Owner must construct (and thereafter maintain) an access road through the Access Parcels to provide a direct connection from County Road 337 to the Mine Parcels.
  - i. This access road shall serve as the sole access for mining activity.
  - ii. The Property Owner must obtain a driveway connection permit from the Levy County Road Department for connection to County Road 337. For a minimum distance of 600 feet from the edge of pavement of County Road 337, the access road must be paved or constructed of other durable and appropriate material that reduces the tracking of dust, soil and/or rock onto the public roadway. Geometry of the connection to County Road 337 shall be in accordance with Florida Department of Transportation specifications or as required by the County based on characteristics of the connecting roadway and the Development.
  - iii. The Property Owner must obtain County permits to install signage warning vehicular traffic on County Road 337 that trucks are entering the highway. Such signage shall be: located 500 feet (in either direction) from the driveway connection and 12 foot from the edge of pavement; and 10 feet in height that includes a “trucks entering highway” sign area of 3 feet by 3 feet and a flashing light that activates during mine operating hours. If any of the foregoing standards are not authorized by the Manual for Uniform Traffic Control Devices, County Road Department staff may authorize such variations as are necessary. Cost of installation and maintenance of such signage is the responsibility of the Property Owner.
  - iv. The need for installation of auxiliary lanes (acceleration, deceleration, and left turn lane) on County Road 337 shall be reviewed by the County during its annual inspection of the Development.
- 2) Prior to commencement of mining activity, the Property Owner must construct (and thereafter maintain) a buffer 100 foot in width around the exterior perimeter

of the Mine Parcels (400 acres). The buffer area, plantings and berm must be shown in sufficient detail on the construction plans. The exterior 50 feet of the buffer width must be a vegetative screen, consisting of preservation of all existing trees and the addition of native sand pines (or other evergreen or non-deciduous trees native to the area and compatible with the area soils) spaced approximately 6 feet apart in staggered rows that are spaced 8 feet apart. In addition, the Property Owner must construct (and thereafter maintain) an 8-foot high earthen berm with slopes that do not exceed 1:1, vertical to horizontal, and are stabilized with the planting of vegetation. The berm may be located either: in the interior 50 feet of the 100 foot buffer; or around the exterior of the active Mine Block (defined in 3 below); provided the berm adequately shields mining activity so that it cannot be viewed through the buffer from adjoining properties when viewed from the property line. The berm must be designed and constructed so as not to impede the natural flow or historic drainage pattern of surface water into the site from offsite areas.

- 3) The Property Owner may excavate sand from the Mine Parcels. Such excavation activity is limited to 20 acres of active excavation at any one time. Each 20 acres is referred to as a "Mine Block." A new Mine Block may be opened/excavated, provided the previous Mine Block is being actively reclaimed. All excavation must be conducted in accordance with the Excavation and Fill permit issued by the County. The following activities are prohibited:
  - i. Blasting.
  - ii. Excavation of any resources other than sand, such as rock or clay.
  - iii. Washing, screening or processing of any materials.
  
- 4) The Property Owner is required to reclaim all Mine Parcels that were excavated. Reclamation shall be conducted in accordance with a reclamation plan approved by the Florida Department of Environmental Protection, unless the mine is exempt from such State requirement. Regardless, the following minimum standards apply: reclamation activity is limited to one Mine Block of active reclamation at any one time, the use of backfill material from offsite is prohibited and within three months of excavation ceasing, reclamation must be completed and the Mine Block re-established with vegetative cover and/or returned to agricultural production.

**B. Time Limitations for Development Authorized.**

- Excavation of sand in the first Mine Block must commence by March 20, 2029. Prior to this date, the Property Owner must notify the Planning and Zoning Office that excavation is commencing and County Staff will inspect to confirm commencement.

- Reclamation of the final Mine Block must be fully completed by March 20, 2069. Prior to this date, the Property Owner must notify the Planning and Zoning Office that reclamation is completed and County Staff will inspect to confirm completion

**Section 5. General Development Conditions.** The Development must comply with the general conditions set forth below. In addition, the Development must comply with any other applicable provisions of the Levy County Code, regardless of whether such conditions or requirements are expressly set forth in this Order.

A. Throughout the duration of the Development, the Property Owner must meet all State and Federal Threatened and Endangered Species guidelines and regulations for habitat protection and restoration.

B. No Development may commence until the Property Owner has documented the presence or absence of known archaeological or historic sites through the State Historic Preservation Officer.

C. The Development must meet applicable levels of service and concurrency as required by Article VII. Level of Service and Concurrency in Chapter 50 of the County Code.

D. Signage for the Development must comply with and obtain permits as required by Article X. Signs of Chapter 50 of the County Code.

**Section 6. Operating Conditions.**

A. No lighting is permitted for mining activity.

B. Best Management Practices (BMP's) for dust control, such as the use of water trucks within any portion of the mine site that is exposed (has not been reclaimed and stabilized) and along the access drive, must be consistently implemented. No water pumping, except as necessary for dust control, is authorized in connection with the mining activity.

C. No excavation of sand may occur within 100 feet of any water well on the Mine Parcels.

D. All mining activity (including cueing of hauling trucks, excavation, hauling and reclamation) is limited to the hours of 8am to 4pm, Monday through Friday.

E. The daily hauling trips for mining activity are limited to 50 one-way trips (also stated as 100 round trips per day) for the first Mine Block, after which the Property Owner can request (through the Special Exception Amendment process) that the County revise this limitation.

F. Staging or queueing of hauling trucks on or along any public right of way is prohibited. All staging or queueing of hauling trucks must occur within the Mine Parcels and/or Access Parcels and must be located 1000 foot or more from any residential structure that is not located on the Mine Parcels or Access Parcels.

G. For all trucks and heavy equipment used in the mining activity, OSHA approved alternatives to the back-up warning audible must be used when technically feasible. Loaded hauling trucks utilizing public roads must be covered to prevent spillage consistent with the FHSMV Standards and shall display the hauling company or individual on the exterior of the truck.

H. No stockpiling of any amount of sand may occur outside of the Mine Parcels.

I. The sand excavation depth is limited to 10 feet above the estimated seasonal high water table (as established in the geotechnical report approved in the State Environmental Resource Permit) and should any groundwater become apparent in the excavation area, the area must be immediately backfilled to a level 10 feet above the water level. After the first Mine Block, the Property Owner can request (through the Special Exception Amendment process) that the County revise this limitation.

J. The side slopes of the sand mine excavation are limited to a maximum of 1 foot vertical: 3 foot horizontal, as per regulations of the DEP Bureau of Mine Reclamation

K. The Property Owner shall implement appropriate controls to contain water runoff within the Mining Parcels.

L. All areas within the Mine Parcels that are not actively mined shall remain in agricultural operation, either as pasture or crops, in accordance with Best Management Practices.

**Section 7. Permits; Impact Fees; Bonds.** Prior to commencement of any Development, the Property Owner is required to:

A. Obtain all County Permits, including but not limited to an excavation and fill permit in accordance with Sec. 50-719.III of the Code; pay any impact fees required for the Development; and post the following bond or other surety in a form approved by the Board of County Commissioners: For each Mine Block, the amount of \$2,000.00 per acre as a reclamation performance bond.

B. Obtain all applicable State and Federal Permits, including but not limited to, the Florida Department of Transportation, the Water Management District, the Department of Health and the Department of Environmental Protection. The Property Owner shall provide copies of all required Regulatory Permits to the County Planning and Zoning Department prior to the commencement of any Development.

## **Section 8. Annual Report; Inspection; Enforcement; Appeal.**

On or before February 1<sup>st</sup> of each year, the Property Owner shall submit an annual report (which covers the previous calendar year) to the Planning and Zoning Department for review by the County Engineer describing the status of the Development and documenting compliance with this Order, County Code and the Excavation and Fill permit requirements. At a minimum, the annual report shall include:

1. Map of site showing the active mining area, reclaimed area, and area to be mined within the next 12 months.
2. Elevation of the lowest point of excavation in the active mining area.
3. Volume of material removed during the year.
4. Daily log of the number of trucks using the site.
5. Copies of any inspection reports produced by other permitting agencies.
6. Copies of any reports submitted to other permitting agencies.
7. Confirmation that the Development is in compliance with all conditions of this Order, County Code and the Excavation and Fill permit; or an explanation of any areas of non-compliance and the plan to remedy those.

The County Engineer shall make an onsite compliance inspection at least once per year. In addition, the Property Owner shall notify the Planning and Zoning Department upon remediation of each Mine Block and the County Engineer shall make an onsite completion inspection.

County Officials may, at any time, inspect the Property for compliance with this Order, the Excavation and Fill permit and County Code. Upon a finding of noncompliance, the Zoning Official shall provide written notice of the noncompliance by certified return receipt mail to the Property Owner. The Property Owner shall have 30 days to achieve compliance or request an extension for good cause shown. If compliance is not accomplished within the 30-day period, the Board of County Commissions will hold a revocation hearing. The decision of the Board is final action, subject to appeal to a court of appropriate jurisdiction.

Regardless of revocation or compliance with any Special Exception condition, the Property Owner shall immediately repair, perform reclamation, or perform any other activity that the Building Official and/or County Engineer deems necessary to protect public health, safety or welfare.

## **Section 9. Liability.**

A. The County retains the right to recover from the Property Owner any cost to repair damage to County maintained or dedicated roads, bridges, and drainage infrastructure caused by hauling related to excavation and fill activities.

B. The Property Owner shall have absolute liability and financial responsibility for any

damages to public or private property, human, animal or plant life, or failure to properly reclaim mined lands.

**Section 10. Amendments.** Any requested modification to this Order will require the Property Owner to timely submit an application for a Special Exception amendment, which will be processed and reviewed in accordance with then applicable County Code.

**Section 11. Effective Date; Recording.** The effective date of this Order shall be the date approved by the Board as set forth below. The Clerk to the Board of County Commissioners is directed to record the approved and executed Order in the public records of Levy County, Florida.

**DONE AND ORDERED** on March 19, 2024.

BOARD OF COUNTY COMMISSIONERS  
OF LEVY COUNTY, FLORIDA

\_\_\_\_\_  
Desiree Mills, Chair

ATTEST: Danny J. Shipp, Clerk of  
Circuit Court And Ex officio Clerk to the  
Board of County Commissioners

\_\_\_\_\_  
Danny J. Shipp, Clerk

Approved as to form and legal sufficiency

\_\_\_\_\_  
Nicolle M. Shalley, County Attorney



**Exhibit "A" to**  
**Order granting a Special Exception for the 3RT Sand Mine**

Mine Parcels:

**Parcel ID# 0359701600**

The South ½ of the Northeast ¼ of Section 35, Township 12 South, Range 17 East, Levy County, Florida. TOGETHER WITH a non-exclusive easement for ingress and egress over and across the East 30 feet of the Northeast ¼ of the Northeast ¼ of said Section 35, and over the East 30 feet of that portion of Section 26, Township 12 South, Range 17 East, lying South of Highway 27-A, as more fully set forth in that certain easement agreement dated October 13, 1966 and recorded in Deed Book 101, Page 79, Public Records of Levy County Florida.

**Parcel ID# 0359700400**

The Southeast ¼ of Section 35, Township 12 South, Range 17 East, Levy County, Florida.

**Parcel ID# 0359700000**

The Southwest ¼ of the Southwest ¼ and the North ½ of the Southwest ¼ and the South ½ of the Northwest ¼ of Section 35, Township 12 South, Range 17 East, Levy County, Florida, LESS AND EXCEPT that property described in Official Records Book 20, Page 144, Public Records of Levy County, Florida.

**PARCEL ID# 0359700300**

The Southeast ¼ of the Southwest ¼ of Section 35, Township 12 South, Range 17 East, Levy County, Florida.

Ingress/Egress Parcels:

**Parcel #0360400600**

The North ½ of the Northwest ¼ of Section 2, Township 13 South, Range 17 East, Levy County, Florida.

**Parcel #0360400000**

The Southeast ¼ of the Northwest ¼, all in Section 2, Township 13 South, Range 17 East, Levy County, Florida.

**Parcel #036040040B**

The North ½ of the Southwest ¼ of the Northwest ¼ Section 2, Township 13 South, Range 17 East, Levy County, Florida with non-exclusive Easement recorded in Official Record Book 1656, Page 956.

**Parcel #036040040A**

The South  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of Northwest  $\frac{1}{4}$ , Section 2, Township 13 South, Range 17 East, Levy County, Florida with a non-exclusive Easement recorded in Official Record Book 1302 Page 412, Less Official Record 1592, Page 724

**Parcel #0360400400**

The Northeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  all in Section 2, Township 13 South, Range 17 East, Levy County, Florida.

**Parcel #0360400500**

The West  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of Section 2, Township 13 South, Range 17 East, Levy County, Florida, less road right of way.

**Parcel #0360600500**

The North 658.72 feet of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 3, Township 13 South, Range 17 East, Levy County, Florida

Together with an easement for ingress and egress and public utilities over and across the West 30 feet of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  and the West 25 feet of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$ , all in said Section 3, Township 13 South, Range 17 East, Levy County, Florida.

**Parcel #0360600300**

The West  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$ , LESS the South 35 feet conveyed to Levy County for road Right-of-Way; and the Southeast  $\frac{1}{4}$  of Northwest  $\frac{1}{4}$ , LESS the North 171.87 feet thereof; and the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$ , LESS the North 171.87 feet thereof, all in Section 3, Township 13 South, Range 17 East, Levy County, Florida.

**Parcel #0360600000**

The Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  and the North 171.87 feet of the Southeast  $\frac{1}{4}$  of Northwest  $\frac{1}{4}$ , all in Section 3, Township 13 South, Range 17 East recorded in Official Record Book 1642, Page 305, Public Records of Levy County, Florida.

**Parcel #0359400000**

The Southwest  $\frac{1}{4}$  in Section 34, Township 12 South, Range 17 East, recorded in Official Records Book 1642, Page 105, Public Records of Levy County, Florida

**Parcel #0359200000**

The East  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  and that part of the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  lying East of State Road 337 in Section 33, Township 12 South, Range 17 East, Levy County, Florida.

**Zoning Map of Proposed 3RT Sand Mine Parcels, including those used for access.**

**Legend**

- Levy Highways
- - - Sec Twn Rng
- ▭ Sand Mine Parcels
- ▭ Parcels

**Zoning**

- Zoning Category**
- Agricultural / Rural Residential
  - C-1
  - C-2
  - C-3
  - C-4
  - Conservation-Natural Reservation
  - Forestry / Rural Residential
  - Industrial
  - Muni. ROW
  - Public
  - R-1
  - R-2
  - RMU
  - RR-3C
  - Recreation
  - Rural Residential

