

## ***New Smyrna Beach City Commission Meeting***

**Feb. 9, 2021**

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### **1. City Commissioners voted 4-1, with Commissioner Randy Hartman dissenting, to turn down a special exception for a borrow pit off SR-44 for the second time, since the city's first denial was quashed in Circuit Court.**

Mayor Russ Owen noted the second vote against the proposed pit likely wasn't the last time the city would be hearing about it. Despite that, he explained his vote against approving the special exception was based on the premise that, "I don't believe that we can with reasonable assurance know that this requested use will not impair the character of the surrounding and adjoining districts, and not be detrimental to public health and welfare."

The latter statement is one city officials must answer in the affirmative before they approve a special exception use to city land use regulations. The Commission previously considered the special exception request on Feb. 11, 2020 and denied it then. However, that action was appealed and the court ruled against the city.

Owners of 119 undeveloped acres fronting on SR-44 sought the special exception to develop the borrow pit, from which sandy material is dredged for building projects, on about 36 acres at the northern end of their acreage. The proposed borrow pit would expand an existing pit on the property to about 18 acres. The entire property is zoned Prime Agriculture (A-1) and has an associated future land use of Activity Center, due to its proximity to I-95 and other business-related parcels of land. The site is immediately south of SR-44, east of Florida Memorial Parkway and I-95, and directly south of (across from) the Sugar Mill Drive intersection with SR-44.

Representing the property owners, Attorney J. Christy Wilson, III argued the city's staff report -- which recommended the city could approve the special exception request with several conditions attached -- "says we have met all the conditions for a special exception." Wilson brought with him experts in environmental, engineering and traffic-related fields. They testified the borrow pit operation would last five years and its 62 inbound and outbound truck trips per day would not adversely affect surrounding surface waters or groundwater, would not contaminate nearby wells and would add less than 1 percent to existing traffic on SR-44. Further, they said the borrow pit would be dredged to a depth of about 33 feet and a network of perforated drain pipes would carry water away from the pond to seep into the ground and a nearby wetland.

In addition, applicants for the special exception agreed to create a landscaped berm to shield the borrow pit operation from being seen from SR-44, to house pumps in a sound-deadening enclosure, to demolish a dilapidated former gas station on the site and to access the borrow pit operation from an intersection with a traffic signal across from the Sugar Mill Drive intersection. The latter signal would require a traffic study and action by Florida Department of Transportation to install a traffic light for trucks entering and leaving the property.

However, none of those accommodations persuaded a majority of the City Commission, or a lengthy procession of residents who live in the Sugar Mill development and elsewhere, that the proposed borrow pit was a good idea.

"We have lived through uncontrolled growth in New Smyrna Beach ... in the last 10 years," said Resident James Lorch. "We just went through the Coastal Woods fiasco, with trucks running up and down Sugar Mill Boulevard. You can't get in and out with all the trucks. We've got Coastal Woods 2 coming on ... There's no way you can predict what the traffic is going to be in the next five years with all this growth going on. This project is going to bring no redeeming value to this community."

Local resident Marvel Richards agreed. "My thing is the traffic that's going to increase there," she said, adding that plans call for a hospital and health park to be built across SR-44 during the operation of the proposed borrow pit.

Only a few speakers supported the project. Resident Vincent Snowden, who owns land to the south and west of the 119 acre site under discussion, spoke up in support of his neighboring landowner and said he had no problem with a borrow pit on the site. Another resident who spoke in favor of the pit said he thought it was "a great thing for the community" that the applicant for the special exception would demolish the eyesore of the abandoned gas station.

Four members of the City Commission remained unconvinced.

"One of the criteria is that it not be detrimental to the surrounding property area. I've heard testimony about the environmental impacts, that I cannot accept," said Commissioner Michael Kolody. He noted the city didn't receive a written report with evidence proving there would be no impact from the borrow pit on groundwater in the area, wetlands or surface waters. "I just don't feel that they've presented their case."

"The residents who came here do deserve some response from us," Vice Major Jake Sachs added. "Just from the water standpoint, there may be very bad ramifications. And the traffic out there is terrible. That road (SR-44) is getting extremely dangerous. I don't want to make it worse."

Mayor Owen also listed a number of other issues relating to the borrow pit that he thought of at the Commission meeting, which he felt still had not been answered. "We're on the razor's edge of this impacting the public's health and welfare," he said, "and I cannot guarantee you that I've asked all the necessary questions."

Commissioner Jason McGuirk also declared, "I'm not ready to accept this project as I've heard it. I have additional concerns. There are a number of good ideas that have been brought up tonight, including a deceleration lane to turn into this property ... Clearly, there is a tremendous traffic issue..."

Commissioner Randy Hartman cast the lone vote in favor of the borrow pit special exception; pointing out the city could exert more control over its operation through the site plan process. And, he said the pit still would need to obtain more approvals from St. Johns River Water Management District and FDOT.

"They admitted they have to do a traffic study. They're going to have to do improvements to the intersection. Some of those improvements may have to have an acceleration/ deceleration lane and traffic signal. The site plan will take care of all the plantings and maintaining the plantings ... All we're doing is saying yes, you can have a borrow permit on that site, and they take the next steps," Hartman said.

He also observed city officials hadn't talked about the fact that by approving the special exception for the borrow pit they would be delaying any commercial or residential development of the property.

**2. The City Commission voted unanimously to approve a 10-year extension of an existing lease for a 65-space public parking lot that serves patrons of Flagler Avenue businesses. In a related matter, Commissioners voted in unison not to buy a home and lot at 214 Columbus Ave.**

The city will lease the parking lot from Coronado Community United Methodist Church for \$41,138.50 a year, and the church requested that the city prohibit overnight parking, parking of RVs or buses, vehicles with trailers, heavy equipment or any other vehicle that is not a standard passenger vehicle. The cost of the lease will come from the city's parking fund. The new lease begins on Dec. 1, 2021 and ends on the Nov. 30, 2031. The city is entitled to one extension of an additional 10 years, with 30 days of notice prior to the lease expiration date.

Regarding 214 Columbus Ave., Commissioners ended their pursuit of that property, which also is owned by Coronado Methodist and is adjacent to the city's leased public parking. At a previous meeting, the Commission heard from a number of residents who lived near the property under consideration and who objected to the city buying it. They said they found out late that the city was considering the purchase, and felt if more parking spaces were developed on the lot next to or across from their own properties would bring unpleasant activities from people leaving local bars much closer to their homes.

Commissioners instructed City Manager Khalid Resheidat to meet with the residents to learn more about their issues with the city buying 214 Columbus. Resheidat returned Feb. 9 and said his perspective on the property purchase had changed from a favorable recommendation to recommending against it.

"After that meeting I really had a change of mind," he said. "We discussed their concerns. Obviously, this would be a parking lot next to a residential home ... In order to create peace in the neighborhood, I think it would be wise to back out of the purchase."

Commissioner Kolody added he knew the city was "desperately in need of parking down there," but he understood the surrounding residents' concerns.

**3. City Commissioners unanimously voted to rezone and change the land use for the Sea Star properties, encompassing about 10 acres on the south side of SR-44, east of South Walker Drive.** The properties' zoning and land use are changing from a commercial use and designation of Highway Service Business (B-3), to a Conservation land use and zoning. The acreage was purchased by the city in October 2020 with funds from the Turnbull Creek Land Preservation bond referendum, which voters approved in November 2018.

**4. The City Commission voted 5-0 to approve a Duss Street Streetscape Project, which will make aesthetic and infrastructure improvements in the Duss Street area between Jefferson and Washington streets.** The project is expected to cost \$80,000, funded by the Community Redevelopment Agency. Work will include installing sidewalks, curbs, gutters and driveway aprons, a new streetlight fixture, seven parallel parking spaces and installing white vinyl fencing around the Bethel Academy and the Mary S. Harrell Black Heritage Museum Exhibit House.

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