

2800 NORTH HORSESHOE DRIVE NAPLES, FLORIDA 34104 239) 252-2400 FAX (239) 252-6358

## APPEAL OF ZONING VERIFICATION LETTER

(Attention Intake Staff – process as Administrative Appeal - ADA)

## The appeal of a zoning letter response shall be in accordance with Sec. 250-58 of the Code of Laws and Ordinances

Appeals to a board of zoning appeals or the governing body, as the case may be, may be taken by any person aggrieved or by any officer, department, board, or bureau of the governing body or bodies in the area affected by the decision, determination or requirement made by the administrative official. Such appeals shall be taken within 30 days by filing with the administrative official a written notice specifying the grounds thereof. The administrative official shall forthwith transmit to the board all papers, documents, and maps constituting the record of the action from which an appeal is taken.

Due public notice of the hearing on the appeal shall be given. Upon the hearing, any party may appear in person or by attorney. A decision shall be reached by the appellate body within 30 days of the hearing; otherwise, the action appealed from shall be deemed affirmed.

The Board of Zoning Appeals shall hold an advertised public hearing on the appeal and shall consider the administrative decision and any public testimony in light of the growth management plan, the future land use map, the Land Development Code or the official zoning atlas. The Board of Zoning Appeals shall adopt the County official's administrative decision, with or without modifications or conditions, or reject the administrative decision. The Board of Zoning Appeals shall not be authorized to modify or reject the County official's administrative decision unless such Board finds that the decision is not supported by substantial competent evidence or that the decision is contrary to the growth management plan, the future land use map, the Land Development Code or the official zoning atlas.

#### Requests for Appeal of Zoning Verification Letter should be addressed to:

Growth Management Department / Zoning Division Attn: Business Center 2800 North Horseshoe Drive Naples, Florida 34104



2800 NORTH HORSESHOE DRIVE NAPLES, FLORIDA 34104 239) 252-2400 FAX (239) 252-6358

## 

E-MAIL ADDRESS

(Please reference the application number that is being appealed)

Attach a statement for the basis of the appeal including any pertinent information, exhibits and other backup information in support of the appeal.

REQUEST DETAIL

#### Application fee = \$1000.00

Appeal of Application No.

**Legal Advertising Fee = \$500.00** (Legal Advertising fee is an estimated amount that will be reconciled upon receipt of invoice from Naples Daily News)

Make check payable to the Board of County Commissioners



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Make check payable to the Board of County Commissioners

Michael R Ramsey 2631 4<sup>th</sup> St NW Naples, FL 34120

31 March 2021

Growth Management Department / Zoning Division Attn: Business Center 2800 North Horseshoe Drive Naples, Florida 34104

RE: Zoning Appeal of ZLTR-PL-2011-2557, via PL20110002557;

#### **Board Members:**

**INTRODUCTION**. This appeal concerns the current and past land use activity on 2 parcels of Agricultural Zoned land owned by Barron Collier Partnership LLLP (BCP) and not being in compliance with the Collier County' Land Development Code (LDC), and the Laws and Ordinances of Collier County (<a href="https://library.municode.com/fl/collier\_county">https://library.municode.com/fl/collier\_county</a>). It is time that all land activities on Agricultural parcels in Collier County be required to protect the health, safety and welfare of all of Collier County Residents.

**ISSUE**. Specifically, the land use activity on 101 acres within the 2 parcels of BCP of collecting, grinding, and processing vegetative material from offsite locations for resale as a soil amendment has been incorrectly classified as producing an "agricultural product."

January 09, 2012, the Collier County Zoning manager classified this activity as producing an "agricultural product" (ZLTR-PL-2011-2557). This incorrect classification allowed this land use activity on Agricultural Zoned property to "**not have to**" comply with regulations within the LDC that protects the health, safety and welfare of Collier County residents and its natural resources.

The collecting, grinding, and processing vegetative material from offsite locations for resale as a soil amendment **would be correctly classified** as "Collection and Transfer Sites for Resource Recovery," Section 2.03.01.A.1.c.12. of the LDC requiring a Conditional Use Permit.

It appears that the current land use activity on the 101 acres within the 2 parcels of BCP should have to come in compliance with the <u>LDC</u> and its Conditional Use requirements. The current operation is in non-compliance, it should cease operations until compliance is achieved and provide proof natural resources have not been contaminated.

**LOCATION**. The 2 parcels are located southeast of the intersection of Camp Keais Rd and Oil Well Road in Section 22 & 23, Township 48, Range 29. There is 101 acres of old farm field being used for the collecting, grinding, and processing of vegetative material and not in compliance. According to the <u>Collier County</u>

Property Appraiser the property identification numbers are:

Parcel #1. PID 00227240009, Section 22, Township 48, Range 29

a. 54 acres of a farm field are not in compliance

Parcel #2. PID 00227280001, Section 23, Township 48, Range 29

b. 47 acres of a farm field are not in compliance

**ONSITE OPERATIONS.** Barron Collier Partnership (BCP) leases portions of the 2 parcels to the current business of Florida Soil Builders, Inc. This business was formally known as R&D Soil Builders, Inc.

**AGRICULTURAL PRODUCT DEFINITION.** The current land use activity of collecting, grinding, and processing of vegetative material from offsite locations for resale as a soil amendment has been classified as an "agricultural product" and therefore is in compliance with Section 2.03.01.A.1.a.2. of the <u>LDC</u>. This classification was approved by the Zoning Manager, Ray Bellows, 19 January 2012, in a letter to Kate English, Pavese Law Firm, representing R&D Soil Builders (Zoning Verification Letter <u>ZLTR-PL-2011-2557</u>, via PL20110002557).

According to <u>7 USCS § 6502 (Title7, Agriculture; Chapter 94, Organic Certification)</u>, the term "agriculture product" means "any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed in the United States for human or livestock consumption." According to this definition a soil amendment is not "consumed" by human or livestock. Therefore, it fails the definition of an "agricultural product" based on the US Dept of Agricultures terms.

The experts in Collier County on what is the definition of an "agricultural product" is the <u>Collier County Property Appraiser's</u> (CCPA) Agricultural Section. This group determines what land use is deserving of an "Agricultural Exemption" from typical property tax rates based on verified use. The CCPA's Ag Section basis its decisions on 193.461 Agricultural Lands, classification and assessment.... Florida Statutes.

According to the <u>Collier County Property Appraiser's</u> (CCPA) **Property Detail Pages** for the 101 acres on the BCP parcels described in LOCATIONS, the CCPA – DENIED – last year and previous years "Agricultural Exemption" for the land use of collecting, grinding, and processing of vegetative material from offsite locations leased to Florida Soil Builders, Inc (aka R&D Soil Builders). In the CCPA opinion – No Agricultural Product was produced that would allow for "Agricultural Exemption."

Therefore, a credible Expert Source verified that no "Agricultural product" is being produced by the onsite business and is not deserving of "Ag Exemption." The conclusion of the CCPA's determination is that the collecting, grinding, and processing of vegetative material from offsite locations does require Conditional Use Permitting per the LDC

**ADDITONAL NON-COMLPIANCE ISSUES**. The incorrect classification of this land use activity resulted in the landowner and onsite operations not acquiring a Conditional Use Permit. A Conditional Use Permit has requirements that protect the health, safety and welfare of the residents and natural resources of Collier County.

If the land use does not have a Conditional Use Permit- it is also in violation of:

- 1. Under the Code of Laws and Ordiances of Collier County
  - Article III, Division 2. Water Pollution Control & Prevention,
- 2. Under the Collier County LDC:
  - 3.06 Groundwater Protection
     3.06.12 Regulated Development
     3.06.12.D Existing Solid Waste Transfer Stations
  - 3.07.02 Interim Watershed Regulations

Compounding the Water Quality/Natural Resource Protection issues:

- 1. This area does not have a South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP). An ERP allows bonafide agricultural operations to dig and create a surface water management system that allows the stormwater discharge coming off an ag field to go throw a detention/retention area before being discharged into surface water, ground water or natural habitats. SFWMD provides this website to verify permits issued and coverage: <a href="https://apps.sfwmd.gov/WAB/SFWMDMapping/index.html">https://apps.sfwmd.gov/WAB/SFWMDMapping/index.html</a>
- The SFWMD ERP permit to the south 11-00269-S did have a detention/retention area that was
  functioning. The collecting, grinding, processing facility would discharge its stormwater through that
  system. In 2016 Barron Collier Partnership informed the SFWMD it would not longer maintain the
  structure and deactivated it, <u>AGI Letter Inactive</u>.
- 3. This area does have a South Florida Water Management District (SFWMD) Consumptive Use Permit, 11-00111-W. Based on the permit there appears to be 27 active wells around the land use activity of collecting, grinding and processing in the described parcels. It is unclear based on the permit documentation if the wells were built properly and can prevent contamination into the lower aquifers.

#### **SUMMARY**

Based on evidence collected from public sources, the collection, grinding, processing operation on Barron Collier Partnership LLLP's 2 parcels is not in compliance with the Collier County LDC and has put in danger contamination of Water and other Natural Resources.

After 3 notices of violation were filed with Code Enforcement in:

• 2003 Case Number: 2003090644

2011 Case Number: CELU20110012632

• 2021 Case Number: CELU20210002356

the correct information was not able to be located to make the correct and accurate decision.

It appears all of this could have been resolved correctly, if Collier County Code Enforcement and Zoning Department would coordinate with the **Experts on Agriculture**, **Agricultural Products and Exemptions** with the Agricultural Section of the Collier County Property Appraisers Office.

Collier County Resident

Michael R Ramsey

Link: Administrative Code for Land Development (Updated: 10-29-2019)

#### Collier County Land Development Code | Administrative Procedures Manual

Chapter 3 | Quasi-Judicial Procedures with a Public Hearing

#### A. Appeal of an Official Interpretation of the Land Development Code

Reference LDC subsection 1.06.01 D, LDC section 8.10.00, LDC Public Notice subsection 10.03.06

Q, and Code of Laws section 250-58.

Applicability This process allows an applicant to appeal an Official Interpretation to the Hearing

Examiner.

Pre-Application A pre-application meeting is not required.

Initiation The applicant files an "Appeal Application for Official Interpretation" with the

Planning & Zoning Division.

Application Contents The application must include the following:

1. Applicant contact information.

2. Interpretation number.

**3.** A narrative describing the request, the legal basis for the appeal, the relief sought, including any pertinent information, exhibits, and other backup information in

support of the appeal.

4. Electronic copies of all documents.

Completeness and Processing of Application After submission of the completed application packet accompanied with the required fee, the **applicant** will receive an electronic response notifying the **applicant** that the petition is being processed. Accompanying that response will be a receipt for the payment and the tracking number (i.e., XX201200000) assigned to the appeal. The tracking number should be noted on all future correspondence regarding the petition.

Notice

Notification requirements are as follows.  $\Leftrightarrow$  See Chapter 8 of the Administrative Code for additional notice information.

**1. Newspaper Advertisements**: The legal advertisement shall be published at least 15 days before the advertised Hearing Examiner hearing in a newspaper of general circulation. The advertisement shall include at a minimum:

• Date, time, and location of the hearing; and

• 2 in. x 3 in. map of the project location, if site specific.

Chapter 9 for the Office of the Hearing Examiner procedures.

Decision maker The Hearing Examiner.

Review Process The Planning & Zoning Division will review the appeal and identify whether additional

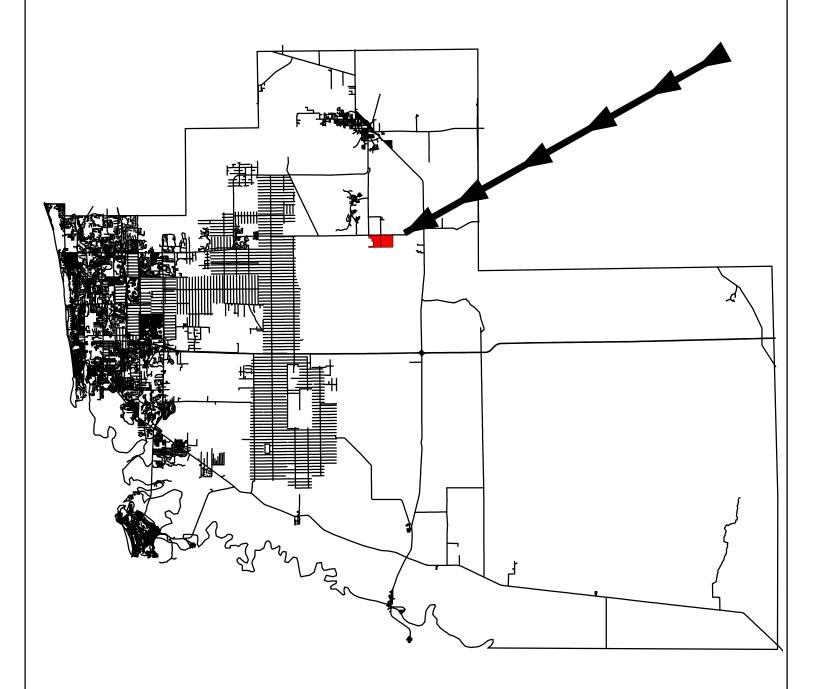
materials are needed. Staff will prepare a Staff Report to present to the Office of the

Hearing Examiner for a decision.

**Updated** 

### PROJECT LOCATION MAP



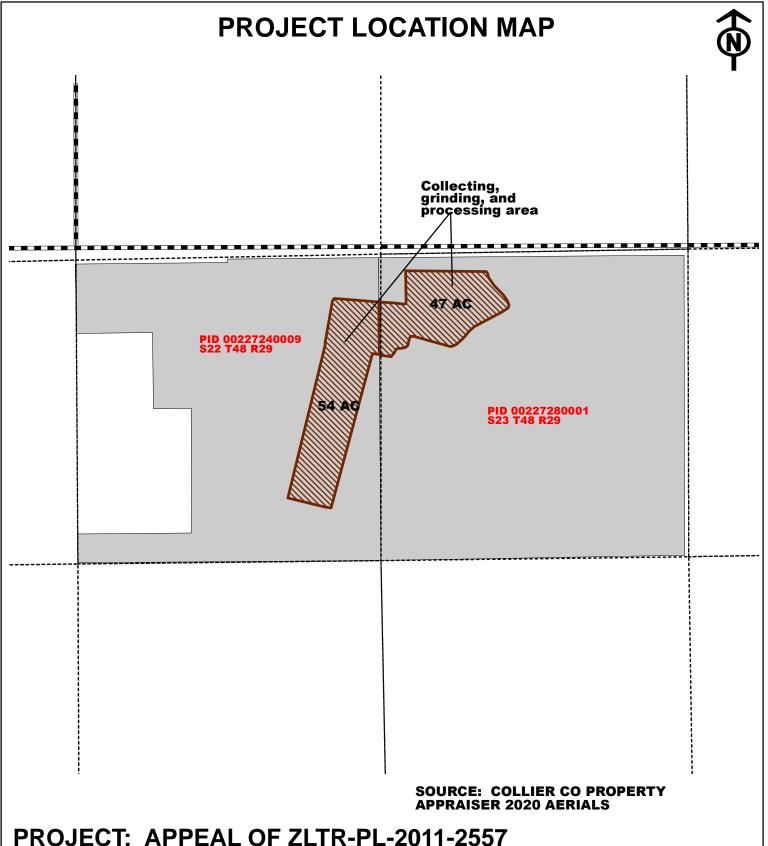


SOURCE: COLLIER CO PROPERTY APPRAISER 2020 AERIALS

## PROJECT: APPEAL OF ZLTR-PL-2011-2557 COLLIER CO,IMMOKALEE,FL

Figure 1. Project Location Map.

SE of the intersection of Oil Well Rd and Camp Keais, Collier Co Immokalee, FL Sec 22,23; Twn 48; Rge 29; totaling 1132.99 acres PID 00227240009, PID 00227280001 Michael R Ramsey 2631 4th St. NW Naples FL, 34120 Michael.R.Ramsey@ embarqmail.com



## PROJECT: APPEAL OF ZLTR-PL-2011-2557 COLLIER CO,IMMOKALEE,FL

Figure 1. Project Location Map.

SE of the intersection of Oil Well Rd and Camp Keais, Collier Co Immokalee, FL Sec 22,23; Twn 48; Rge 29; totaling 1132.99 acres PID 00227240009, PID 00227280001 Michael R Ramsey 2631 4th St. NW Naples FL, 34120 Michael.R.Ramsey@ embarqmail.com



### Collier County Property Appraiser Property Detail

Parcel No	00227240009	Address *Disclaimer	Site City	IMMOKALEE	Site Zone <u>*Note</u>	34142	
Name / Address	BARRON COLL	IER P'SHIP LLLP					
	2600 GOLDEN GATE PKWY # 200						
City	NAPLES		State F	L :	Zip 34105-322	27	

Permits (Provided for reference purposes only. \*Full Disclaimer.)

Tax Yr	Issuer	Permit #	CO Date	Tmp CO	Final Bldg	Туре
1987	COUNTY	187-118				

Land

**70** 

80

Bui	lding/	<b>Extra</b>	Features

Land				Daliding/Extra reatures					
#	Calc Code	Units	#	Year	Description	Area	Adj Area		
10	ACREAGE	54)	"	Built	<u> </u>	Alea	Area		
20	ACREAGE	17	10	1987	METAL-STEEL FRAME	2400	2400		
30	ACREAGE	2.5	20	1007		600	600		
40		89	20	1987	CONC P	600	600		
50		82							
60		158.8		NOT A	G				

87.55

8.2

## Collier County Property Appraiser Property Summary

Parcel No	00227240009	Site Address <u>*Disclaimer</u>	Site City	IMMOKALEE	Site Zone <u>*Note</u>	34142
Name / Address	BARRON COLL	IER P'SHIP LLLF	•			
	2600 GOLDEN	GATE PKWY # 2	200			
City	NAPLES		State F	L	Zip 34105-322	27
Map No.	Strap N	No. Sec	tion Tow	nship Range	Acres *Est	<u>imated</u>
3E22	000100 001	I 03E22 2	22	48 29	499.0	5

Legal Legal 22 48 29 E1/2, N1/2 OF NW1/4, SE1/4 OF NW1/4, E1/2 OF NE1/4 OF SW1/4, E1/2 OF SE1/4 OF SW 1/4, SW1/4 OF SW1/4 LESS N 825FT, W1/2 OF SE1/4 OF SW1/4 LESS N 825FT LESS N 50FT RW, LESS THAT R/W AS DESC IN OR 4418 PG 2154

Millage Area 0 242	<u>Millage</u>	Rates 0 *Ca	alculations
Sub./Condo 100 - ACREAGE HEADER	School	Other	Total
Use Code 0 60 - GRAZING LAND SOIL CAPABILITY CLASS	5.016	8.3762	13.3922

### **Latest Sales History**

(Not all Sales are listed due to Confidentiality)

Date	Book-Page	Amount
01/01/14	<u>4998-865</u>	<b>\$ 0</b>
12/21/98	<u>2493-2779</u>	\$ 14,417,500
06/01/82	<u>975-674</u>	<b>\$ 0</b>
09/01/80	<u>884-1432</u>	<b>\$ 0</b>

#### **2020 Certified Tax Roll**

(Subject to Change)

Land Value	\$ 2,248,215
(+) Improved Value	\$ 49,996
(=) Market Value	\$ 2,298,211
(-) 10% Cap	\$ 111,139
(-) Agriculture	\$ 1,888,800
(=) Assessed Value	\$ 298,272
(=) School Taxable Value	\$ 409,411
(=) Taxable Value	\$ 298,272

If all Values shown above equal 0 this parcel was created after the Final Tax Roll

# **Collier County Property Appraiser Property Detail**

				•				
	Parcel No	00227280001	Site Address <u>*Disclaimer</u>	CDDINGS	Site City	IMMOKALE	Site Zone <u>*Note</u>	
Nan	ne / Address	BARRON COL	LIER P'SHIP	LLLP				
		2600 GOLDEN	I GATE PKWY	/ # <b>20</b> 0				
	City	NAPLES		State	e FL	Zip	34105-3227	
	Perr	nits (Provided	l for referei	nce purpose	es only. <u>*</u>	Full Disclair	<u>ner.</u> )	
Tax Yr	Issuer	Permit #	CO Date	Tmp CO	Final Bl	dg	Туре	
		Land			Buildin	ıg/Extra Fea	itures	
#		alc Code	Units	# Year Built		escription	Area	Adj
10		CREAGE	<b>√ 47</b> /	Built		•		Area

NOT AG

181.94

**ACREAGE** 

**ACREAGE** 

# **Collier County Property Appraiser Property Summary**

Parcel No	00227280001	Site Address <u>*Disclaimer</u>	KUCK	Site City	IMMOKALE	Site Zone *Note	34142
Name / Address	BARRON COL	LIER P'SHIP I	LLLP				
	2600 GOLDEN	2600 GOLDEN GATE PKWY # 200					
City	NAPLES		St	ate FL	Zip	34105-3227	
Map No.	Strap	No.	Section	Township	Range	Acres *Estim	ated
3E23	000100 00	01 3E23	23	48	29	633.94	
Legal	23 48 29 ALL,	LESS N 50FT	R/W				

### **Latest Sales History**

**Sub./Condo 100 - ACREAGE HEADER** 

Use Code 0 52 - CROPLAND SOIL CAPABILITY CLASS II

Millage Area 0 242

(Not all Sales are listed due to Confidentiality)

Date	<b>Book-Page</b>	Amount
01/01/14	<u>4998-865</u>	\$ 0
12/21/98	<u>2493-2779</u>	\$ 14,417,500
06/01/82	<u>975-674</u>	<b>\$ 0</b>
09/01/80	<u>884-1432</u>	<b>\$ 0</b>

#### 2020 Certified Tax Roll

School

5.016

Millage Rates • \*Calculations

Other

8.3762

**Total** 

13.3922

(Subject to Change)

Land Value	\$ 3,275,731
(+) Improved Value	\$ 0
(=) Market Value	\$ 3,275,731
(-) 10% Cap	\$ 47,307
(-) Agriculture	\$ 2,969,300
(=) Assessed Value	\$ 259,124
(=) School Taxable Value	\$ 306,431
(=) Taxable Value	\$ 259,124

If all Values shown above equal 0 this parcel was created after the Final Tax Roll



January 9, 2012

Katherine English, Esquire Pavese Law Firm 1833 Hendry Street Fort Myers, FL 33901

Re: Zoning Verification Letter ZLTR-PL-2011-2557; R & D Soil Builders; Oil Well Road & Camp Keais Road; in Sections 22 and 23, Township 48 South, Range 29 East, Collier County, Florida. Property ID/Folio Numbers: 00227280001 and 00227240009.

Dear Ms. English:

Thank you for your request for Zoning Verification received on November 10, 2011. The subject property is zoned Rural Agricultural with a Mobile Home Overlay and a Rural Lands Stewardship Area Overlay (A-MHO-RLSAO) and is designated as Agricultural/Rural Mixed Use District on the Future Land Use Map of the Growth Management Plan (GMP).

You requested verification of the following on the subject site:

The described soil amendment production facility is an agricultural activity that produces an agricultural product which is used by other agricultural operations to augment and support their production of food and fiber; and

The soil amendment production facility meets the definition of a permitted use as "agricultural activities" based on the language of the County's Rural Agricultural District, pursuant to Section 2.03.01.A.1.a.2 of the Land Development Code (LDC).

Your description of the soil amendment facility's processing procedure indicates that leaves and grass clippings are trucked in, sorted to avoid the inclusion of inorganic matter, placed into windrows, inoculated with microbes, then turned approximately 30 times over the course of approximately 6 months, before being bulk-shipped to farms to be used as a soil amendment.

The above-described process is similar to the procedure on a hay or small-grain farm, where the crop is cut, then raked into windrows to dry before being baled or rolled; clearly an agricultural activity.

Based on the description of your business and the definition of permitted uses in Section 2.03.01.A.1.a.2 of the LDC, it is the opinion of the Zoning Manager that the soil amendment production facility is a bona fide agricultural use and is permitted by right on the subject site.

Please be advised that the information presented in this verification letter is based on the Collier County Land Development Code and/or Growth Management Plan in effect as of this date. It is



possible that subsequent amendment(s) to either of these documents could affect the validity of this verification letter. It is also possible that development of the subject property could be affected by other issues not addressed in this letter, such as, but not limited to, concurrency related to the provision of adequate public facilities, environmental impact, and other requirements of the Collier County Land Development Code or related ordinances.

Should you require further information or have any questions, please do not hesitate to contact me at (239) 252-4211 or fredreischl@colliergov.net.

Researched and prepared by:

Fred Reischl, AICP, Senior Planner Land Development Services Reviewed by:

Raymond V. Bellows, Zoning Manager

Land Development Services

CC:

Peggy Jarrell, Addressing Section



COLLIER COUNTY GOVERNMENT GROWTH MANAGEMENT DIVISION/ PLANNING AND REGULATION 2800 NORTH HORSESHOE DRIVE NAPLES, FLORIDA 34104 239) 252-2400 FAX (239) 252-6358 www.colliergov.net

ZONING	VERIFICATION LETTER	?
	APPLICATION	

APPLIC	ATION			
(check below if the follow ☐ Environmental Iss ☐ Agricultural Exem				
PROJECT NUMBER PROJECT NAME DATE PROCESSED  ZLTR-PL20 OIL WELL I DATE: 11/2 DUE: 12/10	ROAD AND CAMP KEAIS ROAD 10/11			
Please provide all of the information reques Please allow 30 day				
APPLICANT IN	NFORMATION			
Applicant's Name R & D Soil Builders, Inc.  Firm Katherine English, Pavese Law Firm				
Address 1833 Hendry Street				
City Fort Myers	State FL ZIP 33901			
Phone (239)334-2195	Fax (239)332-2243			
E-Mail katherineenglish@paveselaw.com				
SITE INFO	RMATION			
Address Oil Well Road & Camp Keais Roa				
Folio Number 00227280001 & 0022724000				
Property Owners Name Barron Collier Inves	stments Ltd.			
Verification being requested (Please state answered, in the space below or on a separat will respond only to those questions): Confirmation	te attachment. The Zoning Verification Letter.			
is an authorized use as a matter of right in the Rural Agricultural District and more specifically set out in our				
letter to Raymond Bellows, and its exhibits attached hereto. (PLEASE SEE ATTACHMENT)				

Please attach survey or any other information which may be relevant to your request.



COLLIER COUNTY GOVERNMENT GROWTH MANAGEMENT DIVISION/ PLANNING AND REGULATION 2800 NORTH HORSESHOE DRIVE NAPLES, FLORIDA 34104 239) 252-2400 FAX (239) 252-6358 www.colliergov.net

#### SUBMITTAL REQUIREMENTS

- Application Fee: \$100 (payable to the Board of County Commissioners)
   NOTE: Additional Fees of \$100 per hour will be charged as needed upon completion of review and research. Payment of Additional Fees will be required prior to the release of the verification.
- · Additional copy of application and all attachments
- The application can be delivered or mailed to: Growth Management Division/Planning and Regulation, Attn: Business Center, 2800 North Horseshoe Drive, Naples, Florida 34104.

Applicant Signature

Date

Please be advised that the zoning letter is based upon the available records furnished by Collier County and what was visible and accessible at the time of inspection. This report is based on the Land Development Code that is in effect on the date the report was prepared. Code regulations could be subject to change. While every attempt has been made to ensure the accuracy or completeness, and each subscriber to or user of this report understands that this department disclaims any liability for any damages in connection with its use. In addition, this department assumes no responsibility for the cost of correcting any unreported conditions.



Direct dial: (239) 336-6249 Email: KatherineEnglish@PaveseLaw.com

1833 Hendry Street, Fort Myers, Florida 33901 | P.O. Drawer 1507, Fort Myers, Florida 33902-1507 | (239) 334-2195 | Fax (239) 332-2243

October 21, 2011

#### Via Federal Express

Raymond Bellows, Zoning Manager Collier County Government Department of Zoning and Land Development Review 2800 North Horseshoe Drive Naples, Florida 34104

RE: Zoning Verification Letter Request

Our File No. 66437.004

Dear Mr. Bellows:

As you are aware, this firm represents R & D Soil Builders, Inc., (R&D) in regard to its operations in Collier County. As we discussed during our meeting on October 4, 2011, we are seeking a Zoning Verification Letter for R&D's operations on property located southeast of the intersection of Oil Well Road and Camp Keais Road in eastern Collier County. The location is further identified by Folio Numbers are 00227280001 and 00227240009 ("Property"). The Property is owned by Barron Collier Investments Ltd., and R&D has held a leasehold interest in the property for more than 11 years.

The Property is located in the Rural Agricultural District (A). As you know, the intent of this district is to

Provide lands for agricultural, pastoral, and rural land uses by accommodating traditional agricultural, agricultural related activities and facilities, support facilities related to agricultural needs and conservation uses. Section 2.03.01 Collier County Land Development Code.

R&D is seeking the Zoning Manager's determination that its operations fall within the definition of a permitted use as a bona fide agricultural activity in the Rural Agricultural District

category as set forth in Section 2.03.01 of the Collier County Land Development Code and asks the following questions as a basis for that determination:

- 1. Whether R&D's soil amendment production facility is an agricultural activity that produces an agricultural product which is used by other agricultural operations to augment and support their production of food and fiber?
- 2. Whether R&D's soil amendment production facility meets the definition of a permitted use as "agricultural activities" based on the language of the County's Rural Agricultural District pursuant to Section 2.03.01.A.1(a)(2)?

In support of a determination that R&D's soil amendment production facility is an agricultural related activity that directly supports local agricultural needs and is a permitted use in the County's Rural Agricultural District, we provide the following information and supporting documentation.

R&D is using the Property to operate its soil amendment production facility and has operated at this location for more than eleven years. R&D uses vegetative matter as feedstock and employs a management process designed by Midwest Biosystems which is known as "Advanced Composting System", a process that uses managed microbial action and the biological processes resulting from that action to break down vegetative material into a high quality organic soil amendment. The resulting product is sold solely in bulk to commercial agriculture operations, most of which are in close proximity to R&D's facility (see the aerial photograph attached as Exhibit "A").

R&D's feedstock is the production process from the leaves and grass clippings generated by the maintenance of landscaped areas and yards, primarily in Collier County. The vegetative material delivered to the site and sorted to avoid the inclusion of inorganic materials since those cannot be broken down by microbial process and to limit the amount of wood in the feed stock which can delay production of the end product. The resulting feed stock consists primarily of grass and leaf clippings. The feed stock is then placed in long, narrow windrows on open ground and is inoculated with some finished soil amendment to introduce the microbes that convert the plant material into the finished product and start the process. In order to complete this process, each windrow is turned approximately 30 times over the course of a 4 to 6 month period to maintain appropriate temperatures within the windrows and re-aerate the windrows to allow the microbes to complete the conversion of vegetative materials. When the process is complete, the resulting organic soil amendment is then shipped in bulk to local farms for use by producers of citrus, vegetable, sod and other agricultural commodities. None of the

feedstock materials remain on site for more than a year from start to finish. The more detailed description of the product and process is in a letter drafted by Rodney Robbins, President of R & D Soil Builders, that is sent to growers who want to use the material (see Exhibit "B"). This letter is be used by farmers to understand the process and also by those who are seeking or wish to maintain an organic farming designation to provide assurances that the organic soil amendment will comply with organic farming standards.

All of the soil amendment produced by R&D is sold in bulk to commercial agricultural operations. There are no retail or small volume sales. As part of its operation, R&D has a spreading service for the soil amendment that growers may use to take care of distributing the soil amendment after its delivery to the producers' farms and groves. The most of R&D's customers are in close proximity to the Property since the transportation of the soil amendment for significant distances is cost prohibitive and unnecessary to the success of R&D's operation.

A close review of the Land Development Code specifically states that agricultural activities include, but are not limited to, a variety of agricultural activities including the production of specific agricultural commodities such as crops, poultry and egg production, and milk production. See Section 2.03.01.A.1(a)(2). These agricultural activities make use of specific inputs and biological processes to produce a commodity or product. For example, crop production includes planting plants and using the soil, water, sun, fertilizer and microbial action to produce food or fiber. Or, a farmer will use chickens and cows, feed and water to produce eggs and beef or milk respectively. In this instance, R&D is using biological processes, including water and microbial action to convert a feed stock (leaves and grass) into a soil amendment. There is a discrete time line and process for the production of the product which is then distributed to its final users, commercial agricultural growers. This process is identical to more farming commodities that have a higher degree of awareness in the population.

R&D is registered with the Florida Department of Environmental Protection ("DEP") as a "Yard Trash Recycling Facility" which authorizes R&D to receive the feed stock necessary for its operation, specifically leaves and grass clippings. (See Exhibit "C"). As a "Yard Trash Recycling Facility", R&D is required to comply with specific requirements of the Florida Administrative Code Section 62-709, Criteria for Organics Processing and Recycling Facilities. R & D may only accept yard trash and may not engage in any activities outside of their current registration. Section 62-709.201(25), F.A.C defines "yard trash" as

Vegetative matter resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub

trimmings, grass clippings, palm fronds, trees and tree stumps, and associated rocks and soils.

As a matter of quality control, R & D does not accept land clearing debris, although that technically qualifies as yard waste because of the proportion of unusable materials. As previously mentioned, to assure the time lines are met for production and delivery, most of the materials in the feed stock must be leaves and grass clippings with a very limited amount of woody materials. R&D's operation is strictly a soil amendment production facility that uses microbial action to convert inputs using biological processes to an end product. From the aerial photograph, it is difficult to distinguish R&D's operation and the adjacent more traditional row crops and citrus groves. See Exhibit "D". The windrows mimic the appearance of those farm fields. As discussed more particularly above, R&D's operation is akin to a traditional farming operation where row crops and citrus trees are tilled and actively managed to produce a crop since the windrows have to be turned and monitored to maintain optimum production. The only significant difference is R&D is using microbial action to produce the product rather than photosynthesis to produce its crop. However, in order to meet demand and provide a steady supply of feed stock, R&D must use a more regularly available source, specifically grass and leaf clippings.

Please note that R&D's soil amendment production fills local agricultural needs by selling its soil amendment wholesale in bulk exclusively to farms and providing a spreading service to assist in application. R & D's soil amendment can be used by all farms, including those with organic certification from the USDA. The composting process itself is an agricultural activity and in practice, works like a traditional row crop farming operation. Windrows are laid out along the same axis as crops on surrounding properties; the raw materials are "farmed" (regularly monitored and turned) so that biological processes create the end product which is then delivered to end users on trucks. No further processing occurs or is needed for the final product.

Finally, a review of the Collier County Property Appraiser's website shows that the Property leased to R&D has an agricultural tax classification for the entire Property. See Exhibit "E". In order to receive an agricultural tax classification for purposes of ad valorem taxation, the Property Appraiser must determine that a property is in actual use as bona fide agriculture as of January 1 of each year. Section 193.461(3)(b), F.S. sets forth seven factors for use in determining whether a "good faith commercial use of the land" is in place:

1. The length of time the land has been so used.

- Whether the use has been continuous.
- The purchase price paid.
- Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices.
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- 7. Such other factors as may become applicable.

The agriculture tax classification of this property has been continuous and uninterrupted since the R&D began its operation more than 11 years ago. The case law on what constitutes a bona fide agriculture use is considerable and well developed. Based on the continuing agricultural tax classification, it appears that the Property Appraiser has reviewed the use of this site by R&D and determined that the existing use as a soil amendment production facility meets the both statutory definition and the interpretations provided by case law for a good faith commercial agricultural use of the land. The Property Appraiser has other classifications available to it for processing facilities, transfer stations and the like.

Based on the foregoing discussions and the attached exhibits which are incorporated herewith as if set forth herein, we respectfully request that the Zoning Manager reach a determination that:

- 1. R&D's soil amendment production facility is an agricultural activity that produces an agricultural product which is used by other agricultural operations to augment and support their production of food and fiber.
- 2. R&D's soil amendment production facility meets the definition of a permitted use as "agricultural activities" based on the language of the County's Rural Agricultural District pursuant to Section 2.03.01.A.1(a)(2).

Thank you for your time in reviewing this request for zoning verification. We would be pleased to provide you with any additional information or analysis you may need to fully evaluate this request. I look forward to your response.

Very truly yours,

Katherine R. English

Signed in her absence to avoid delay

Katherine R. English

KRE/ss Enclosures