

RESOLUTION Z-13-11

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA FOR A SPECIAL USE PERMIT TO ALLOW FOR AN EXCAVATION AND FILL OPERATION IN AN "A" (AGRICULTURAL) DISTRICT WITH A FUTURE LAND USE DESIGNATION OF RURAL/AGRICULTRE ON APPROXIMATELY 133 ACRES LOCATED AT 7804 NE 67TH AVE, AS SUMMARIZED IN EXHIBIT A

WHEREAS, Zoning Application ZOS-03-13 has been duly filed and was considered by the Alachua County Board of County Commissioners considered the item at its regular meeting of August 13, 2013;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

Zoning Application ZOS-03-13, a request by Clay Sweger of Eng, Denman and Associates, Inc., agent, for W.G. Johnson and Son, Inc., owner, for a special use permit to allow an excavation and fill operation in an 'A' (Agricultural) district in a Rural/Agriculture Land Use designation on approximately 133 acres located at 7804 NE 67th Ave., as summarized in Exhibit A in this resolution, and Exhibit B, master site plan, is hereby approved with the following amended conditions and bases:

Conditions

1. This special use permit is issued to W.G. Johnson & Sons, Inc. to allow excavation and filling of land with “clean debris” and “land clearing debris” as defined by the Florida Administrative Code on 133 acres. This special use permit shall expire August 12, 2033. Such expiration will not prejudice the applicant’s right to submit a new application. In the event of transfer of this operation or business to any other operating entity, the transfer shall comply with Sec. 404.95 of the Alachua County Unified Land Development Code. The excavation and fill operation shall comply with Article 24, Chapter 404 of the Alachua County Unified Land Development Code.

2. Final grading and establishment of permanent vegetation shall occur on an area-by-area basis as excavation is completed so that reclamation takes place in conjunction with borrow. Not more than five (5) acres at any one time shall be used for clean debris and land clearing debris, debris disposal. Not more than 5 acres shall be under active reclamation at any one time on the entire site. Revised final site plan approval shall be required for the entire site and must be approved by the Development Review Committee within six months of renewal of this special use permit. An extension up to six months may be authorized by the Development Review Committee. The revised final site plan shall outline and indicate the approximate acreage for areas that have been excavated, filled, and reclaimed at the time of development plan approval. The development plan shall also outline and indicate the areas that are planned for excavation, fill, or reclamation in the five year special use permit renewal period. Areas that are not

planned for fill during the five year special use permit period shall be required to establish finished slopes no greater than 1:4 (rise:run). The finished side slopes shall be no steeper than 1:4 (rise:run) at the outermost boundaries of the permitted excavation area.

3. The method of excavation shall be planned so that the greatest volume of earth can be moved without resulting in deep holes scattered throughout the pit. The Applicant shall refill excavated areas with materials specified in Article 24, Chapter 404 of the County's Unified Land Development Code which allows filling with clean soil or rock materials (sand, clay, or limestone). Clean debris may be allowed in excavated areas before dry pit conditions are achieved, provided a State-issued Environmental Resource Permit for use of such fill, per Florida Administrative Code Chapter 62-701.730(15) has been issued and submitted as a condition of development plan approval. The use of the land shall be so that excavation begins at one part of the property and proceeds to the remainder of the property, carrying this depth throughout the width and length of the land. Excavation shall take place in a manner not to leave a pit and be reclaimed with clean soil, "land clearing debris" defined in Chapter 62-701.803(1) of the Florida Administrative Code as "rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project" and "clean debris" defined in Chapter 62-701.200(11) Florida Administrative Code as "any solid waste which is virtually inert, which is not a pollution threat to ground water or surface waters, is not a fire hazard, and is likely to retain its physical and chemical structure under expected conditions of

disposal or use. The term includes brick, glass, ceramics, and uncontaminated concrete including embedded pipe or steel” as defined by the Florida Administrative Code and limited gradual slopes, as approved by the DRC.

4. A registered land surveyor shall establish accessible benchmarks at a maximum of 500 foot centers within the areas of active excavation for purposes of monitoring excavation depth. The maximum depth of excavation shall be no greater than 7 feet from natural ground elevation for the area designated as A on the revised site plan. The maximum depth of excavation shall be no greater than the elevation of the wet season high water table for areas as shown in Section A-A, B-B, and C-C on the Special Use Permit Conditions and Cross Sections plan dated May 27, 2008. Wet season high water table elevations are based on soil boring data completed April 18, 2003 and submitted with the “Revised Site Plan to Add 76 Acres” or additional soil boring data provided as part of final site plan submittal in 2003 to the Development Review Committee. The location of the benchmarks must be clearly marked on the revised development plan and the annual updated development plans.

5. In the event that unauthorized materials (as defined in Section 404.101 of the Alachua County ULDC), that reasonably can be anticipated to cause groundwater quality violations, are disposed on this site, the Alachua County Environmental Protection Department has the right to conduct environmental monitoring to address contamination concerns associated with the unauthorized materials.

6. The management goals of the Florida Fish and Wildlife Conservation Commission (FFWCC) regarding gopher tortoises shall be addressed prior to initiating excavation on new five-acre parcels. Certification that this condition has been met shall be provided to the Alachua County Environmental Protection Department prior to any filling or earth disturbing activities. The applicant shall have the sites surveyed for gopher tortoises and any tortoise relocations shall be carried out pursuant to FFWCC regulations. Additionally, the applicant shall address any other listed species that are encountered during tortoise relocations.

7. At the time of revised development review, the applicant shall provide an update of the following: The following items must be evaluated and found adequate by the Development Review Committee as a condition of revised final site plan approval.
 - a) An inventory of all public and private potable water wells within 500 feet of the subject property boundaries.

 - b) A site closure plan, per Sec 404.101(e) for a “reclamation plan” shall be revised and submitted for approval by the Development Review Committee. The plan shall include, but not be limited to, the provision of procedures for post-closure repair of subsidence on the “finished” landfill surface to prevent the contamination of the Floridan aquifer by runoff from

the land surface.

- c) A revised hazardous materials management plan shall be submitted for the purpose of outlining spill cleanup and hazardous materials disposal procedures
 - d) A description of the applicant's intent shall be provided regarding the current Florida Department of Environmental Protection permit, and which option the applicant will choose for complying with Rule 62-701.730, Florida Administrative Code, for land clearing debris facilities. A copy of required State issued permits, including but not limited to those issued by the Florida Department of Environmental Protection or the Water Management Districts.
 - e) A revised waste management plan for the handling of unpermitted wastes shall be submitted for the purpose of outlining procedures for properly managing the disposal of wastes that are discovered.
 - f) The development plan must include an as-built survey. The survey shall include current topographic contours and 500 foot centered benchmarks in active excavation areas.
8. Site design shall not impede the natural flow of water onto the property from off-site.

9. The future use or abandonment of any wells which exist in the proposed excavation area shall be specified at the time of revised final site plan approval. The use of any existing wells as monitor wells may be required by the Development Review Committee. Any well abandonment shall be carried out in accordance with St. Johns River Water Management District requirements.
10. Setbacks of 250 feet from the west property line, 400 feet from the property line of all single family residences along the north parcel boundary as shown on the submitted site plan and 50 feet from the north, south and east property lines shall be maintained as vegetative buffers to minimize visual impacts to adjacent residents and users of the ingress/egress road. No silviculture or other activities shall occur in setbacks as delineated in the site plan submitted with this special use permit.
11. Burning shall be prohibited except during initial land clearing. Any burning during initial land clearing shall comply with the Florida Administrative Code. Notice will be given to surrounding property owners within 400 feet at least seven days prior to any burning activities.
12. The applicant shall adhere to the road maintenance agreement which applicant entered into with the county in May of 1987, for County Road NE-34. The applicant shall also maintain the roads from County Road NE-34 to the subject property's entrance. The condition of N.E. 91st Street shall be assessed

periodically by the Alachua County Department of Public Works and the applicant shall make any repairs required, per the road maintenance agreement.

The applicant shall ensure that functional drainage ditches alongside the access road are regularly maintained.

13. Hours of operation shall be from 7:00 a.m. to 7:00 p.m. Monday through Saturday. No operations shall take place on county recognized holidays.
14. The applicant shall comply with all federal, state, and local laws, rules, regulations, and ordinances, now and hereafter in force, which may be applicable to the use of the site. Any violation of the above conditions shall be grounds for suspension or revocation of this Special Use Permit by the Alachua County Board of County Commissioners.
15. Concurrency requirements for roads, drainage, stormwater management, solid waste, water and sewer and mass transit shall be met as a condition of revised final development plan approval.
16. An update of the development plan must be submitted by October 1st of each year. The update shall be submitted to the Alachua County Department of Growth Management, Codes Enforcement Division and the Alachua County Environmental Protection Department. The update shall include a sketch of changes to the site due to excavation, fill, and reclamation activities since

October 1st of the previous year. Approximate location and acreage of excavation, fill, and reclamation activities shall be noted. If necessary, a report describing changes shall be included. The update, including written and graphical information, shall contain enough information to show how the site has changed in the previous year and provide assurance that such changes are in compliance with County regulations and conditions of the special use permit.

17. The east access point to the site off of NE 67th Avenue shall be closed to truck traffic. The applicant shall ensure that speed limit/trash signs are posted along NE 67th Avenue.

Bases

1. Policy 5.1.2 of the Future Land Use Element determines that landfills are institutional uses. **Policy 5.1.1** states that such institutional uses may be allowed in areas specifically designated for Institutional land use on the Future Land Use Map, as well as in other land use categories, as provided in the Land Development Regulations. The Rural/Agriculture land use is described as the appropriate location for excavation and fill operations in **Unified Land Development Code (ULDC) Section 404.94**, and so the proposed operation may be permitted with a special use permit at this location.

2. Policy 5.2.2 of the Future Land Use Element states that institutional land uses shall be located where they may be integrated into the surrounding community. Adjacent uses include agriculture operations, which would not be negatively impacted by the

continued use of this site for excavation and fill with clean debris.

3. Policy 6.1.7 of the Future Land Use Element states that *clean debris and construction and demolition debris landfills may be permitted through the special use permit process in areas defined as rural/agriculture, subject to performance criteria in the land development regulations, including the protection of groundwater quality.* The Johnson Landfill meets the criteria set forth in this policy as a clean debris, excavation and fill operation. Conditions are in place and land development regulations have been implemented that will ensure groundwater quality is not impacted by this operation.

4. Objective 1.3 of the Solid Waste Element requires that privately-operated landfills be regulated consistent with local, state, and federal regulations to ensure proper disposal methods and protection of natural resources including groundwater. The Johnson Landfill is currently regulated under an approved permit with the Florida Department of Environmental Protection (FDEP) regarding disposal methods and groundwater quality monitoring.

5. Chapter 404, Article 24 of the ULDC defines the County's land development regulations for excavation and fill operations. **Section 404.91** addresses the applicability of these regulations, and states that "no existing operation shall be expanded or otherwise modified without first being authorized in accordance with this Article" and that such operations shall be subject to these requirements "as a result of an application to expand or modify the facility." The applicant is not requesting to expand or otherwise modify this facility, and so the facility will not be required to meet all

of the new standards for excavation and fill operations for Article 24 at this time.

Section 404.97, specifically grants an exemption from the new site development and operational standards for mining, excavation and fill operations that are operating on special use permits approved prior to January 30, 2006. These site development standards include the minimum setbacks and buffers prescribed in Table 404.97.1.

6. Policy 7.1.2 of the Future Land Use Element states that proposed changes to the zoning map shall be considered in light of the availability and capacity of public facilities required to serve development, as well as the relationship of the proposed development to existing development in the vicinity. The facility has direct access to an arterial road that has existing capacity remaining. The continued use of the site under the proposed special use permit will not impact emergency services, school capacity, or other levels of service within Alachua County. Surrounding land uses include large undeveloped parcels of agricultural land. The subject property has a future land use designation of Rural/Agriculture, and is located away from any urban area or residential subdivision. The site contains approximately 133 acres, which is sufficient area for the filling operation to take place and to provide adequate protection for adjacent properties. The setbacks and buffers that are required for this operation as found in the conditions of this special use permit will serve to minimize any potential negative impacts on existing development within the vicinity.

This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED in regular session this 13th day in August, A.D., 2013.

BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA

By: _____

Mike Byerly, Chair

ATTEST:

J. K. Irby, Clerk

APPROVED AS TO FORM

Alachua County Attorney

(SEAL)

DEPARTMENT APPROVAL

AS TO CORRECTNESS

Department of Growth Management

Authorized Designee

EXHIBIT A

Legal Description

For: W.G. Johnson and Son, Inc.

A portion of Section 8, Township 9 South, Range 21 East, Alachua County, Florida; being more particularly described as follows:

Commence at a concrete monument (4" x 4", stamped "PRM 2115") found at the southwest corner of Section 8, Township 9 South, Range 21 East, Alachua County, Florida, and run thence North 00°11'55" East, along the west boundary of said Section 8, a distance of 980.81 feet to the northwest corner of that certain tract of land as described in Official Records Book 1016, page 8 of the Public Records of Alachua County, Florida, and the POINT OF BEGINNING; thence continue North 00°11'55" East, along said west boundary, 1406.65 feet to the southwest corner of that certain tract of land as described in Official Records Book 1288, page 758 of said Public Records; thence North 89°48'27" East, along the south line of said certain tract of land as described in Official Records Book 1288, page 758, along the south line of that certain tract of land as described in Official Records Book 1614, page 1043 of said Public Records, along the south line of that certain parcel of land as described in Official Records Book 1436, page 727 of said Public Records, along the south line of that certain parcel of land as described in Official Records Book 1248, page 556 of said Public Records, and along the south line of said certain tract of land as described in Official Records Book 1614, page 1043, a distance of 2391.76 feet; thence South 00°11'33" East, 400.00 feet; thence North 89°48'27" East, parallel with said south line of said certain tract of land as described in Official Records Book 1614, page 1043, a distance of 444.64 feet; thence South 00°05'57" East, 741.58 feet; thence South 89°54'03" West, 150.00 feet; thence North 00°05'57" West, 100.00 feet; thence South 79°46'04" West, 691.08 feet; thence South 82°53'47" West, 716.19 feet to a concrete monument (4" x 4", no id.) found on the east line of that certain parcel of land as described in Official Records Book 758, page 430 of said Public Records; thence North 08°15'47" West along said east line, 15.52 feet to a concrete monument (4" x 4", no id.) at the northeast corner of said certain parcel of land (Official Records Book 758, page 430); thence South 82°11'30" West along the north line of said certain parcel of land (Official Records Book 758, page 430) and along the north line of said certain tract of land as described in Official Records Book 1016, page 8 of said Public Records, a distance of 1312.88 feet to the POINT OF BEGINNING.

Containing 76.07 acres, more or less.

A portion of Section 8, Township 9 South, Range 21 East, Alachua County, Florida; being more particularly described as follows:

Commence at the southwest corner of said Section and run thence South $89^{\circ}51'38''$ East, along the south boundary of said Section 1472.20 feet to a found concrete monument and the Point of Beginning; thence continue South $89^{\circ}51'38''$ East, along said south boundary 547.34 feet to a found concrete monument; thence North $00^{\circ}05'57''$ West, 1237.42 feet to a found concrete monument; thence South $82^{\circ}53'47''$ West 551.86 feet to a found concrete monument; thence continue South $82^{\circ}53'47''$ West, 164.50 feet to the east line of that certain tract of land as described in Official Records Book 758, page 430 of the Public Records of Alachua County, Florida; thence North $08^{\circ}16'29''$ West, along said east line 15.54 feet to a concrete monument found at the northeast corner of said certain tract of land and the centerline of Old Frazier Avenue; thence South $82^{\circ}13'07''$ West, along said centerline and along the north line of said certain tract of land 708.40 feet to the northeast corner of that certain tract of land as described in Official Records Book 1016, page 08 of said Public Records; thence South $00^{\circ}09'57''$ West, 1062.10 feet to the southeast corner of said tract of land (Official Records Book 1016, page 08); thence North $89^{\circ}52'36''$ East, along the south line of said tract of land (Official Records Book 758, page 430), 872.84 feet; thence South $00^{\circ}07'09''$ East, 6.75 feet to the POINT OF BEGINNING.

Containing 37.43 Acres, more or less.

A portion of Section 8, Township 9 South, Range 21 East, Alachua County, Florida; being more particularly described as follows:

Commence at the southwest corner of Section 8, Township 9 South, Range 21 East, Alachua County, Florida, and run thence South $89^{\circ}51'38''$ East, along the south boundary of said Section, a distance of 1472.20 feet to a found concrete monument (No ID); thence continue South $89^{\circ}51'38''$ East along said south boundary, 547.34 feet, to a concrete monument (No ID) found at the POINT OF BEGINNING; thence North $86^{\circ}56'30''$ East, a distance of 681.21 feet, to a set rebar and cap (Eng, Denman & Assoc.); thence North $00^{\circ}05'57''$ West, 1237.84 feet to a set rebar and cap (Eng, Denman & Assoc.); thence South $79^{\circ}46'04''$ West, 691.08 feet, to a found concrete monument (C.C.A.); thence South $00^{\circ}05'57''$ East, 1237.42 feet, to the POINT OF BEGINNING.

Containing 20.00 acres, more or less.