

ZONING PETITION REVIEW REPORT

TO: Pasco County Planning Commission FILE: ZN09-CU13  
PETITION #CU08-13  
Commission District #3

FROM: Debra M. Zampetti  
Zoning/Code Compliance Administrator Planning Commission  
Hearing Date: 2/11/09

SUBJECT: Conditional Use Request Board of County Commissioners  
South Central Pasco County Hearing Date: 2/24/09, NPR  
(Cont. from 3/12/08, PC)  
(Cont. from 3/25/08, BCC)  
(Cont. from 4/9/08, PC)  
(Cont. from 4/29/08 BCC) TAZ #107

APPLICANTS: **CHARLES AND ROSEMARY REDDING**

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PETITION SUMMARY:

Petition No. CU09-13 in the names of Charles and Rosemary Redding has been filed for a conditional use for a yard-trash disposal facility and an air curtain incinerator in an I-2 General Industrial Park District. The property is located on the north side of S.R. 54, approximately three-quarters mile east of Gunn Highway (Parcel ID No. 26-26-17-0000-00400-0030), and contains 9.36 acres.

The surrounding zoning districts and land uses are as follows:

	<u>Zoning District</u>	<u>Land Use</u>
North:	A-C Agricultural	Odessa Subregional Wastewater Treatment Facility
East:	I-2 General Industrial Park	PAWS Recycling
South:	I-1 Light Industrial Park	S.R. 54; Paver/Brick Company
West:	C-2 General Commercial	Pediatric Surgery Center

FINDINGS OF FACT:

1. Presently, the subject site contains an existing mulching operation and will contain a proposed air curtain incinerator. The applicants propose to bring the property into conformance for a yard-trash disposal facility and an air curtain incinerator. The applicants have provided the following information:

This is a wholesale operation and is not open to the public. The operation consists of converting trees to mulch. Typical trees delivered to the site by truck include oak, pine, and palm from cleared sites and yard maintenance. Approximately five incoming trips and five outgoing trips occur daily except weekends when the business is closed. The mulch is transported by truck to gardening services and large clients such as Busch Gardens.

The workforce consists of two owners and one employee, resulting in no more than ten trip-ends per day.

Water is provided by a private well. Restroom facilities are provided by a portable sanitation unit serviced on a weekly basis.

Existing wetlands are located more than 600 feet from the mulch operation and are not impacted.

2. Access to the property is from S.R. 54, which has 250 feet of right-of-way.
3. The subject property is located in Flood Zone "X," and development within this area is not subject to the requirements of the Land Development Code, Article 700, Flood Damage Prevention.
4. The surrounding area is characterized by mixed commercial and industrial development.
5. The subject area has been designated IH (Industrial - Heavy) under the Comprehensive Plan.
6. The Board of County Commissioners has approved several actions for the subject parcel. They are as follows:
  - a. Petition No. 3639, on May 26, 1987, from an A-C Agricultural District to an A-R Agricultural-Residential District with conditions for the subject parcel.
  - b. Petition No. 6109, on December 2, 2003, from A-R Agricultural-Residential and A-C Agricultural Districts to an I-1 Light Industrial Park District with conditions for a 66.6-acre tract. The subject parcel was a portion of this rezoning.
  - c. On May 22, 2003, the Board of County Commissioners approved a Biannual Comprehensive Plan Land Use Map Amendment from RES-3 (Residential - 3 du/ga) to IL (Industrial - Light) and IH (Industrial - Heavy) with conditions for the subject property. The approved conditions are as follows: 1) a minimum setback of 25 feet from all wetlands shall be required; and 2) the developers shall submit a full and complete environmental/habitat study prepared by a qualified, professional biologist for review by Pasco County prior to approval of the first preliminary plan/preliminary site plan. The Development Review Committee may require additional conditions at the time of preliminary plan/preliminary site plan review based upon the findings of the environmental/habitat study. The subject parcel was a portion of this action.
7. On April 29, 2008, the Board of County Commissioners withdrew the subject conditional use request from the agenda to be readvertised and heard at a later date. A continuance was required in order to allow the applicant time for remedial stump cleanup and berm creation.
8. In accordance with the provisions set forth in the Pasco County Land Development Code, Article 300, the property subject to a conditional use must be advertised with due public notification.
9. On October 9, 2003, staff received a letter of comment from Tampa Bay Water requesting that any excavation on the subject property shall not remove any of the confining clay unit and, in no event, should contact with the limestone aquifer be allowed. On January 12, 2009, staff received additional review comments from Tampa Bay Water recommending the following conditions:
  - a. Excavation on the subject property shall not remove any of the confining clay unit and not contact the limestone aquifer.
  - b. The applicant shall comply with the Pasco County Wellhead Protection Ordinance.
  - c. All site plans generated and/or submitted by the applicants/developers shall show the locations of the Tampa Bay Water transmission mains/pipeline easements. The applicants/developers shall ensure that development activities will not cause any adverse impact to existing and future Tampa Bay Water infrastructure located within the permanent pipeline easements. The requirements of Tampa Bay Water's easement must be met.
10. On November 2, 2007, the applicants were issued a Pasco County Ordinance Violation Warning Notice for operating a yard-trash disposal facility without obtaining an approved conditional use and an approved site plan.
11. On February 6, 2008, a memorandum was received from Lawrence M. Whitten, Fire Marshal, stating that it is imperative that the subject request meets the requirements of the Pasco County Hydrant Ordinance, Chapter 46, Section 46-55 through Section 46-48, to provide the necessary fire protection needed for this type of operation. Requirements are also imperative regarding the accessibility to the site and around mulch piles, as well as the size of the mulch piles.

Additionally, on January 12, 2009, the Fire Marshal provided the following comments based on a site inspection performed in January 2009:

"I have no issues at this time with the size of the piles. The pediatric center (adjacent to west) installed a hydrant at the edge of the property line and Engine No. 17 has an elevated master stream that we didn't have when they originally started the mulching business. Hopefully the air curtain incinerator will cut down the size of the piles."

12. On January 27, 2009, the Pasco County Biologist performed a site inspection. According to the inspection comments, the owner/applicant has followed his recommendations regarding the setbacks from the wetlands with two exceptions:
  - a. At the front (southeast corner) there is a large pile of spent soil material within ten feet of the wetland. They were recommended to remove it.
  - b. At the rear (northeast) portion of the property there is a massive pile of tree stumps encroaching on the wetland. The operators indicated that the air curtain incinerator was specifically going to eliminate that pile.

The owner/applicant has buffered the west property line ditch next to the pediatric surgery center by approximately 25 feet. The remainder of the buffers or pull back zones vary in width from 25 feet to 50 feet.

13. On May 10, 2005, the Board of County Commissioners adopted the Corridor Preservation Tables in the Transportation Element of the Comprehensive Plan necessitating the preservation of right-of-way along certain roadways. The tables require a corridor preservation width of 142 feet for Tower Road for future road improvements. In accordance with the Comprehensive Plan, Chapter 7, Transportation Element Pasco County shall utilize the Corridor Preservation Table (Table 7-4a), High Intersection Volume Table (Table 7-4b) and the Future Traffic Circulation Map Series: the Future Number of Lanes Map (Map 7-22), the Future Roadway Functional Classification Map (Map 7-24), the Highway Corridor Preservation Map (Map 7-35), and the Highway Vision Plan (Map 7-36) to delineate and review proposed rights-of-way for long-range corridor preservation.
14. According to the Growth Management Department, the subject proposed development and land use are exempt from any traffic analysis requirements of the Traffic Impact Study and Substandard Road Guidelines, Resolution No. 08-87. A payment of a substandard road fee may still be required.
15. The owners'/applicants' request is compatible with the established pattern of land use and zoning in the area, as conditioned.
16. Staff has reviewed the proposed request in accordance with Article 300, Subsection 303.3.A.6, Standards for Approval of Conditional Uses, of the Pasco County Land Development Code and with the applicable provisions of the Pasco County Comprehensive Plan and finds it consistent, as conditioned.

STAFF RECOMMENDATION TO THE PLANNING COMMISSION:

Approval with conditions

CONDITIONS:

1. Subject to the provisions of the right-of-way preservation ordinance, the developer shall convey at no cost to Pasco County 142 feet of right-of-way for Tower Road along the entire northern boundary of the subject property as shown on Map 7-36 Highway Vision Plan, as amended, located in the Comprehensive Plan, Transportation Element.
2. The right-of-way may be transferred by perpetual right-of-way easement or fee simple deed. All conveyances shall occur at preliminary/site plan approval, or within 90 days of the County's request, whichever occurs first. All conveyances shall include access easements, be in a form acceptable to the Real Estate Division, and be free and clear of all liens and encumbrances, including exemption from all covenants and deed restrictions.
3. The yard-trash disposal facility shall meet all the requirements of the Pasco County Hydrant Ordinance, Chapter 46, Section 46-55 through Section 46-58, to provide necessary fire protection, as well as the directives provided by the Fire Marshal necessary to protect public health and safety.

4. The owners/applicants shall submit a preliminary/site plan for review and approval in accordance with all requirements of the Land Development Code, Article 300, Section 306, Development Review Procedures.

5. At the time of site plan review, the owners/applicants shall be required to comply with the Pasco County Comprehensive Plan, Conservation Element, Policy CON. 1.1.2, as follows:

1.1.2 Impacts to Listed Species

Pasco County shall require the evaluation and management and/or mitigation of impact to animals listed as endangered, threatened, or species of special concern by requiring that proposed development sites be examined for the presence of plant and animal species listed as threatened, endangered, or of special concern by the Florida Fish and Wildlife Conservation Commission, or the U. S. Fish and Wildlife Service.

Confirmation of an adequate review of potential habitat for listed species shall be provided during the development review process.

6. The owners/operators shall submit a topographical survey with elevations of the project site to the Florida Department of Environmental Protection and the Development Review Division at the time of site plan approval. The owners/developers shall install accessible bench-mark monuments at the four corners of the project site.

7. Hours of operation activities shall be limited to those daylight hours between 7:00 a.m. and 5:00 p.m. only. The hours of operation for burning shall be 9:00 a.m. to 5:00 p.m. No activities shall be conducted on weekends or County-designated holidays. The operators or their employees must be present at the site during all hours of operation.

8. The owners/operators agree to allow personnel and authorized representatives of Pasco County access to the property for the purposes of monitoring compliance with the terms of this conditional use.

9. The owners/operators shall be required to obtain all necessary permits from the Southwest Florida Water Management District, the Florida Department of Environmental Protection, and other regulatory agencies, as appropriate, for this operation. Documentation regarding these agencies' jurisdictional determinations shall be provided to the Pasco County Code Compliance Section. All regulations, rules, and orders of Federal, State, and local agencies are made part of these conditions of operations.

10. The owners/operators shall provide written confirmation from the Florida Department of Environmental Protection of either a permit or other authorization for operation of this facility to the Development Review Division prior to site plan approval.

11. This conditional use shall be limited to yard trash as defined as clean, organic-vegetative matter resulting from landscaping maintenance or land-clearing operations and includes materials, such as tree and shrub trimmings; grass clippings; palm fronds; trees; tree stumps; clean, dry wood (from new construction), and shall not contain any foreign matter or contamination.

12. This conditional use shall be limited to the burning of organic yard debris in a Florida Department of Environmental Protection-approved air curtain incinerator. There shall be no burying of yard debris.

13. There shall be no recycling activities, processing, or storage of yard debris within 50 feet of any property line. The air curtain incinerator must be located a minimum of 150 feet from any property line.

14. There shall be no recycling activities, processing, or storage of yard debris within 100 feet of an individual, potable-water-supply well or within 1,000 feet of a potable, community-supply well.

15. There shall be no recycling activities, processing, or storage of yard debris within 50 feet of any natural or artificial (manmade) body of water, including wetlands within the jurisdiction of the Florida Department of Environmental Protection or any agency.

16. Excavation on the subject property shall not remove any of the confining clay unit and not contact the limestone aquifer.

17. The owners/applicants shall comply with the Pasco County Wellhead Protection Ordinance.
18. All site plans shall show the locations of the Tampa Bay Water transmission mains/pipeline easements. The owners/developers shall insure that development activities will not cause any adverse impact to existing and future Tampa Bay Water infrastructure located within the permanent pipeline easements.
19. Fire protection and control features:
  - a. The owners/operators shall provide the Pasco County Fire Marshal information of an acceptable water source for fire fighting, as well as access to the site and interior roadways within the site prior to site plan approval.
  - b. No area that is occupied by processed or unprocessed materials shall be more than 50 feet from access by motorized, firefighting equipment.
20. The owners/operators shall provide an all-weather access road, at least 20 feet wide, all around the operation. There shall be interior lanes at least 15 feet wide.
21. The owners/operators shall install a minimum six-foot-high opaque buffer completely around the perimeter of the operation creating an effective barrier to prevent unauthorized entry and dumping into the site. In addition, a six-foot-high opaque buffer shall be installed a minimum of 25 feet from jurisdiction wetlands to prevent encroachment if applicable.
22. The facility shall operate in a manner to control disease vectors and to control objectionable odors.
23. Storage of processed or unprocessed materials shall be stacked no higher than the buffer.
24. Any yard trash received at this site shall be processed or removed within six months or within the period required to receive 3,000 tons or 12,000 cubic yards, whichever is greatest. To be considered processed material it must pass a six-inch sieve. However, logs with a diameter of six inches or greater may be stored for up to 12 months before it is processed or removed, provided the logs are separated and stored apart from other materials on site.
25. Processed material shall be removed from the facility within 18 months (first in/first out) in accordance with the Florida Department of Environmental Protection regulations.
26. An annual renewal fee of \$2,600.00 for monitoring shall be due in conjunction with an annual report.
27. Upon written notice by the County of a violation of the permit conditions or the Pasco County Land Development Code, the applicants agree to take corrective actions to address the alleged violation(s) to the satisfaction of the County.
28. The applicants shall comply with the terms of the Pasco County New Development Fair Share Contribution for Road Improvements Ordinance.
29. The applicants shall be responsible for the control of fugitive-dust particulate arising from this facility. Such control shall prevent the creation of nuisance conditions on adjoining property.
30. The applicants agree to operate in a safe and secure manner to minimize any disruption to the natural environment and to comply with all existing ordinances.
31. The applicants shall, prior to commencement of yard-debris-disposal activities, construct an asphaltic or Portland cement concrete turnout (edge of pavement to the right-of-way) to current County standards at the proposed haul route entrance if such driveway does not exist. The applicants shall, prior to the construction of the turnout, provide a construction plan to the County for review and approval under the Right-of-Way Use Permit procedures.
32. Prior to initiation of disposal activities under this permit, the applicants shall erect signs alerting motorists to the haul traffic entering S.R. 54. Such signs shall be erected in a manner acceptable to the Pasco County Traffic Operations Division.
33. Any permit issued hereunder does not constitute a waiver or approval of any other permits that may be required for other aspects of the total project.

34. Annual Reports: Each year, the operators shall file an annual report within 30 days following the anniversary date of the permit to the County Administrator or his designee. This report shall include, but not be limited to:
- a. Monthly records of incoming and outgoing material. The values may be in cubic yards or tonnage, but the same unit of measurement shall be used to record both incoming and outgoing material.
  - b. Current inventory of materials on site.
  - c. Current elevation of the property.
  - d. All current permits.

Failure to file the annual report in a timely manner may be grounds for suspension of the permit. An extension of time may be granted by the Board of County Commissioners upon request and for reasonable cause.

35. This approval is subject to the provisions of the Pasco County Land Development Code, Section 303.5, Review and Revocation of Conditional Use Permits. In addition, staff may initiate a revocation for violations of the conditions of approval and/or upon a showing of the criteria outlined in Section 303.5.C.1, Review and Revocation of Special Exceptions and Conditional Use Permits.
36. The owners/applicants are hereby notified that the effective date of this approval shall be the date of the final County action; however, no activity shall commence on site until such time as the acknowledgement portion of this document is completed (including notarization) and received by the Zoning/Code Compliance Department.

**OWNERS'/APPLICANTS' ACKNOWLEDGMENT:**

The owners/applicants acknowledge that they have read, understood, and accepted the above-listed conditions of approval. **Do not sign until you receive a copy of this petition with the Board of County Commissioners results.**

\_\_\_\_\_ (Date) \_\_\_\_\_

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, A.D., before me personally appeared the owners/applicants, to me known to be the persons described in and who executed the foregoing document and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein expressed.

Witness my hand and seal at \_\_\_\_\_, \_\_\_\_\_ County, Florida, the day and year aforesaid.

My commission expires:

\_\_\_\_\_ Notary Public, State of \_\_\_\_\_ at Large

**PLANNING COMMISSION ACTION:**

\_\_\_\_\_ Ayes      \_\_\_\_\_ Nays

**STAFF RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS:**

**BOARD OF COUNTY COMMISSIONERS ACTION:**