

COLLIER COUNTY LAND DEVELOPMENT CODE STAFF CLARIFICATION

ZONING & LAND DEVELOPMENT STAFF CLARIFICATION SC 03-003

DATE: 27 October 2003

LDC SECTION: 1.5.5. Regulating Noise From Construction Activity

SUBJECT: Applicability to Commercial Excavation Activity

INITIATED BY: Staff

BACKGROUND/CONSIDERATIONS: Code Enforcement has requested clarification of whether the above LDC section, which limits hours of operation for "Any construction activities and site preparation activities including but not limited to land clearing and grading, excavation and vegetation removal, authorized or permitted pursuant to the provisions of this code..." applies to commercial excavation activity. The reason for this limitation is the noise generated by the activity and its impact on the surrounding neighbors.

DETERMINATION (CLARIFICATION): It is my opinion that the provisions of this section are intended to limit the hours of operation of commercial excavations unless the operation is otherwise exempted by the Conditional Use or permit which allows such activities. While such excavations are to a large extent an end in themselves, the excavation is accomplished in such a way as to allow further development of the property once the excavation has been completed. "Development" is defined by the LDC through reference to Florida Statute 380.04(1), which defines development as "...the carrying out of any building activity or mining operation...[and]...the making of any material change in the use or appearance of any structure or land..." Furthermore, the noise generated by excavation activity has the same, if not greater, impact on surrounding improved properties, and should be subject to the same hours of operation as other development activity.

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