

Dear Neighbors and Friends,

As you may recall, applicants for the Estero Group Mine on East Corkscrew Road are seeking settlement with Lee County with respect to their recent zoning denial through a "Special Master Proceeding". This process was established by the Fla. Legislature in 1995 to provide property owners an alternative to seeking relief through the traditional court system. You can read more about the process [here](#).

The Estero Group Special Master Proceeding has been scheduled for 9AM on Tuesday, October 21, 2008 in the 1st floor Conference Room of the Lee County Administration Building, 2115 Second St., Fort Myers.

If you testified during the Estero Group hearing last year, you should have received a letter and form from the Lee County Attorney's office about the Special Master Proceeding. If you signed and returned the form by the 21 day deadline, that means that you were accepted as a "participant" in the upcoming hearing. You should have received notice about this proceeding from the office of Jim Nullman who was selected as the Special Master for this case.

It's important to note that only the applicant (Estero Group) and Lee County are named as parties in this proceeding. Those members of the public who returned the form to the County Attorney are designated as "participants", which limits our participation to testimony as to how any proposed settlement agreement alternatives would affect our substantial interests.

As I understand it, there are a couple of ways this thing could go:

1. It is possible, but very unlikely, that Lee County Staff and Estero Group could negotiate a settlement before the case goes to the Special Master proceeding on the 21st. If this happens, the settlement agreement would go on to the BOCC for consideration.
2. More likely, the Special Master proceeding will begin on the 21st as planned. The hearing will begin with a negotiation phase in which settlement alternatives are presented by the applicant. My understanding is that Lee County is confident in its position with regard to the zoning denial, so it is most likely that negotiations will result in no agreement. In this case the proceeding would then enter the "mediation and fact-finding phase". This is where the public would be invited to comment – most likely in the afternoon. It is possible that the hearing may last more than one day.

At the conclusion of the hearing, the Special Master will have 2 weeks to consider the testimony and facts presented and render a written non-binding recommendation, including a determination of whether the BOCC acted unreasonably or unfairly burdened the use of the real property.

The Board of County Commissioners will then have 45 days to accept, reject, or offer modifications to the Special Master's recommendation. Keep in mind that the BOCC is under no legal obligation to accept any negotiated relief in this case, nor are they bound by any finding of the Special Master.

Given the recent unanimous agreement by the BOCC to limit new mining activities to the historic Alico Road corridor, I think there is little likelihood of Estero Group succeeding through this special master process.

If you responded as a participant in this case, please plan to attend the hearing on October 21st. It's important that we are prepared to speak about adverse impacts that any settlement alternative might

provide. Strategically, it's also important that our testimony is organized so that we aren't overly repetitive and that all substantial points of objection are included on the record. We'll try to arrange a strategy meeting prior to the hearing so that we can organize. I'll keep you posted on when and where.

Thanks,

Kevin Hill
Corkscrew Rural Community
www.corkscrewroad.org