

Rezoning Application for DeSoto Mine & Adjacent Lands



December 2016



Project Overview

The Applicant, Mosaic Fertilizer, LLC, is submitting an application and supporting information and analysis, for the rezoning of certain properties from the current A-10 Agricultural 10 zoning district to the PM-I Phosphate Mining-Industrial district allowing for phosphate mining and related activities. The properties subject to this proposed rezoning request are designated on the Future Land Use Map as Rural/Agricultural. The properties also overlain by the Generalized Phosphate Mining Overlay Designation (GPMOD).

The properties that are the subject of this application include those lands owned and/or under unified control by the Applicant (see attached Permitting Agreements and Mineral Interest Deeds). Properties owned or under control of the Applicant currently zoned PM-I are not included in this application and/or the legal description. Many of the maps provided depict the PM-I zoned lands for reference purposes only. The properties that are the subject of this application are identified on the attached Map Series and Legal Descriptions.

This request, generally referred to as the Desoto Mine Tract (but including properties outside of the mine boundaries), is consistent with the Desoto County Comprehensive Plan and Land Development Regulations, as amended, including the recently adopted Comprehensive Plan Amendments. The proposed rezoning request does not require a concurrent amendment to the adopted (amended) Comprehensive Plan as mining is an allowed use in the Rural/Agricultural land use designation.

Desoto County Comprehensive Plan Consistency

The DeSoto County Comprehensive Plan is comprised of eleven elements including the Future Land Use and Conservation Elements. The Comprehensive Plan provides general guidance regarding development within the County and the basis for implementing the Land Development Regulations. The Comprehensive Plan was recently amended as part of Comprehensive Plan Text Amendment (LS 2014-01 Text Amendment) which was undertaken to provide internal consistency between DeSoto County's GPMOD and related Comprehensive Plan Policies including policies within the Future Land Use and Conservation Elements. The amendments to the respective Elements and Policies further clarified the intent of those items previously adopted, which created the GMPOD and eliminated ambiguity in the language of the GPMOD and the remainder of the Comprehensive Plan.

As noted in Objective 1.12b of the Comprehensive Plan, "The Generalized Phosphate Mining Overlay Designation consists of private lands that are likely to contain phosphate minerals located within the Rural/Agriculture Future Land Use District and the Phosphate Mineral Type as depicted on the Generalized Surface Minerals Map. Establishment of the Generalized Phosphate Mining Overlay Designation will ensure the orderly development of phosphate mining activity, including the extraction of mineral resources and reclamation of mined land in a manner compatible with the overall development of the County and the protection of environmental resources as further prescribed in the policies listed below and Phosphate Mining Regulations set forth in the land Development Regulations."

The GPMOD was added to the County's Comprehensive Plan and Future Land Use Map Series and also included creation of text language in the form of applicable objectives and policies



which recognizes and regulates phosphate mining and related activities as an allowable land use overlain by the GPMOD. In addition, Map I-7, as amended, depicting those areas within the GPMOD where mining is generally prohibited, was adopted into the Comprehensive Plan Map Series concurrently with the adoption of the GPMOD. Mosaic’s proposed rezoning, including the DeSoto Mine, is consistent with the County’s Comprehensive Plan and its respective policies as provided below:

11.1 FUTURE LAND USE ELEMENT

GOAL 1: Future Growth

Objective 1.3: Rural/Agricultural Land Use Category Defined.

The intent of the Rural Land Use Category is primarily agricultural, pastoral, and rural residential development. This district is designed to accommodate traditional agricultural uses and conservatory measures, where appropriate, while protecting the rural areas of the County. The intent of this category is to permit a reasonable use of the property, at a gross density of no more than one dwelling per ten (10) acres. At the same time, the intent is to prevent the creation of conditions which would endanger, damage, or destroy the agricultural base of the County, the environmental resources of the County, the potable water supply and the wildlife resources. The first priority of this category is agricultural use.

Policy 1.3.8: Phosphate mining/extraction and related land uses are allowed in the Rural/Agriculture land use category only when the area is included in the Generalized Phosphate Mining Overlay Designation and in accordance with the Generalized Phosphate Mining Overlay Designation objective and policies, as well as other policies within the Future Land Use Element and Conservation Element which apply to phosphate mining activity.

Response: The Desoto Mine and adjacent lands subject to the rezoning request are located in unincorporated DeSoto County where the Comprehensive Plan Future Land Use Map / GMPOD identify phosphate mining as an allowable land use. Consistent with the FLUM and GMPOD Policies, mining is an allowed use once all permit approvals are obtained.

Policy 1.12b.1 Generalized Phosphate Mining Overlay Designation Location:

The Phosphate Mining Overlay area of the Future Land Use Map consists of those lands that are identified as containing phosphate minerals within Rural Agriculture Future Land Use classification and where phosphate mining (sic) is planned and is likely to occur.

Response: The proposed DeSoto Mine is entirely located within the Rural/Agricultural land use designation and the GPMOD, which would allow the extraction of phosphate mineral resources. Currently, the proposed DeSoto Mine is zoned PM-I and A-10. Since the zoning designation PM-I allows for the extraction of phosphate resource, those lands currently zoned A-10 are requested to be rezoned to PM-I. The proposed re-zoning will allow for submission of MMP and OP applications describing the logical development and systematic mining and reclamation of the Mine. The proposed mining is wholly



within the Peace River Basin. Additional lands proposed for rezoning adjacent to the mine are located outside of the Peace River Basin.

Policy 1.12b.2 Generalized Phosphate Mining Overlay Designations Uses:

The following activities shall be permitted within the Generalized Phosphate Mining Overlay Designation upon approval of a Phosphate Mining Operating Permit or Operating Permits as required by the DeSoto County Land Development Regulations: (a) Phosphate mining/extraction; (b) Phosphate rock and slurry processing, transfer; (c) Beneficiation plant including, but not limited to water treatment facilities, railroad spur, storage, mine administration offices, and similar uses; (d) Clay settling areas and recirculation systems, NPDES outfalls, and other drainage uses; (e) Heavy machinery, vehicles and equipment, including but not limited to draglines, dredges, bull dozers, pumps, trucks, and similar equipment necessary for mining and reclamation; (f) Land reclamation; (g) Agriculture; and (h) Phosphate mining allied industries.

Response: The area within the DeSoto Mine tract is proposed for phosphate mining and related activities. The lands adjacent to the Mine subject to this rezoning request will remain predominantly in agricultural use. Prior to mining and post-reclamation, the predominant use will be agricultural. Mining is a reasonable use of the property and does not result in an increase in residential density or other development intensity that would increase demands on public infrastructure greater than currently allowed in the Rural/Agricultural land use category or the A-10 zoning district. The characteristics of the proposed reclamation are compatible with existing adjacent land use, as detailed in the proposed reclamation are compatible with existing adjacent land use, as detailed in the proposed MMP and OP applications.

Policy 1.12b.3: Generalized Phosphate Mining Overlay Designation development standards. Phosphate mining activity must comply with the following minimum criteria:

Response: This Policy lists 12 criteria requiring submission and approval of an OP, appropriate buffering from adjacent uses, reclamation of wetlands, buffer zones from preserved wetlands and other surface waters, identification of seepage wetlands, minimum floodplain setbacks, use of Best Management Practices, and consistency with Comprehensive Plan policies, including prohibiting mining in those areas depicted on Map I-7 while allowing for corridor crossings. The MMP and OP applications address all of these criteria and demonstrate compliance with these development standards.

Policy 1.12b.5: DeSoto County shall promote and ensure that phosphate mining activities and reclamation will not preclude future beneficial uses of mined lands.

Response: The proposed DeSoto Mine, including the lands zoned PM-I and those proposed to be re-zoned by this application will reclaim all mined and disturbed lands so as to allow for a wide range of land uses that complement or buffer existing adjacent uses. The proposed reclamation plan design relies on practical and demonstrated engineering approaches and current practices in restoration. The outcome of this restoration will be monitored in accordance with permit conditions regulating reclamation success thereby ensuring future beneficial uses of these lands.



The post-reclamation land conditions, in accordance with the DeSoto County Land Development Regulations, will support a full range of the potential uses allowed in the current Rural/Agricultural land use category. This is demonstrated by the completed reclamation projects at current Mosaic mines in Polk, Hardee, Manatee, and Hillsborough Counties where post-reclamation lands support agricultural, residential, recreational and commercial land uses. Mosaic's demonstrated ability to reclaim mined lands into a variety of productive uses provides DeSoto County with reasonable assurance that this rezoning application is compatible with overall development within the County.

Policy 1.12b.6: Generalized Phosphate Mining Overlay Designation implementation criteria. The following criteria shall apply to area within the mining overlay designation prior to authorization to develop a mining operation.

- (1) **DeSoto County shall continue to enforce its mining regulations through the Land Development Regulations regarding permitting, mining and reclamation of areas of mineral resources as determined by the Generalized Phosphate Mining Overlay Designation.**
- (2) **All mining activity allowed within the Generalized Phosphate Mining Overlay Designation shall require approval through the County's development review procedures. This review will require the submission of an application for a Phosphate Mining Master Plan and approval of an Operating Permit in accordance with the provisions of the Land Development Regulations.**
- (3) **Land use authorization in the form of a zoning designation, which permits phosphate mining and related uses as authorized by the Land Development Regulations, shall be obtained prior to approval of a Phosphate Mining Master Plan.**
- (4) **DeSoto County shall continue to regulate the location and operation of phosphate mining activities to minimize negative impacts on surrounding properties, ensure that areas are appropriately reclaimed and encourage the productive reuse of such areas.**
- (5) **The DeSoto County Land Development Regulations shall specify criteria by which mining activity may be permitted, including appropriate setbacks and buffering from adjacent land uses and to specifically identify land use activity associated with phosphate mining, such as mineral extraction, clay settling area, land reclamation, etc.; and industrial land use activities, such as beneficiation plants, allied industries, and mining related activities.**

Response: The rezoning of these properties does not automatically grant the Applicant the ability to begin phosphate mining activities, operations or the authorization to mine. Authorization is granted by the County through the approval of the MMP and OP. The MMP and OP will be submitted to the County and applicable state agencies concurrently with this rezoning application; however, it should be understood that each is required to be reviewed separately. Rezoning the subject properties is the second of four steps in the phosphate mining approval process. Consistent with Section (3) above, the Applicant has



submitted this rezoning request for consideration prior to approval of a MMP and OP. The review of these applications will allow DeSoto County to meet these Policies.

Ownership & Mineral Interest Rights

Mosaic is the sole entity associated with the DeSoto Mine and is pursuing rezoning the A-10 zoned lands within the mine boundary necessary to allow for phosphate mining. Additional lands outside of the mine boundary and within the GPMOD are also proposed for rezoning from A-10 to PM-I. All parcels requested for rezoning are within the GPMOD. Mosaic's land ownership and interests are divided between fee simple interest / warranty deeds, mineral interest warranty deeds and permitting agreement lands.

Copies of Mosaic's fee simple / warranty deeds (10 deeds in total) are provided in Tab 4, while permitting agreement lands owned by Mr. Hollingsworth are provided in Tab 6. All fee simple warranty deeds and agreement lands requested for rezoning to PM-I total - 9,482.4 acres. Please refer to Tab 3 - Maps 1-5 for more detail information on zoning, location and parcel identification numbers.

Three (3) Mineral Interest Warranty Deeds (Mineral Interest - MI) provide documentation of Mosaic's MI ownership rights that authorize permitting, rezoning, etc., and expressly allow access to the phosphate mineral reserves underlying these lands. Refer to Tab 5 for these deeds. The 1994 MI (surface rights) deeds were granted by IMC-Agrico Company and IMC Development Corporation and conveyed to V.C.H Citrus, V.R. Hollingsworth, III, as Trustee, and to James & Robert Brewer over certain lands located north and south SR. 70 in Township 36 & 37 South, Range 23 East.

In January 2005, V.C.H Citrus and V.R. Hollingsworth sold portions of these MI lands to DiMare Ruskin #2, LLC, a Florida Limited Liability Company. These two deeds are attached to document the existing surface owner of the MI lands, and to document they are now the successor in interest to VCH Citrus and V.C. Hollingsworth 1994 MI warranty deeds. Again, refer to Tab 5 for these deeds. Together the MI lands requested for rezoning to PM-I total 4,575.1 acres. Please refer to Maps 1-5 for more information. In summary all lands requested for rezoning to PM-I total 14,057.5 acres.

Currently, the DeSoto Property Appraiser shows much of the DeSoto Mine ownership under the name "IMC-Agrico", and this is expected as Mosaic Fertilizer, LLC. is the successor in interest by merger. The following documentation in Tab 7 is provided to detail this ownership / interest:

1. IMC-Agrico Company changed its name to IMC Phosphates Company on June 26, 2000
2. IMC Phosphates Company changed its name to Mosaic Phosphates Company on October 22, 2004
3. Mosaic Phosphates Company merged into Mosaic Fertilizer, LLC on July 29, 2005

In conclusion, Mosaic Fertilizer, LLC is the successor in interest to all IMC-Agrico Company listed lands in DeSoto County.



Desoto County Rezoning Application Forms

The DeSoto County Rezoning Application forms provide certain criteria in the review of rezoning requests. These items are included in “Procedure - Step 3 Review” of the County Rezoning Application and these forms are provided on the following pages in Tab 1 along with the Applicant’s response to each respective item.