



**CODE ENFORCEMENT HEARINGS OF THE
SPECIAL MAGISTRATE
MONTVERDE, FLORIDA
WEDNESDAY, MARCH 23, 2022
10:00 A.M.**

**MONTVERDE TOWN HALL
COUNCIL CHAMBERS**

**17404 SIXTH ST
MONTVERDE, FLORIDA**

I. CALL TO ORDER:

II. CITY CLERK ADMINISTRATION OF OATH TO DEFENDENTS/WITNESSES:

I solemnly affirm that the evidence that I shall give shall be the truth, the whole truth, and nothing but the truth.

III. ANNOUNCE FORMAT OF PROCEEDINGS:

IV. CODE ENFORCEMENT OFFICER/TOWN MANAGER AGENDA UPDATES

V. NEW BUSINESS:

Case No. CE 2022-03

Respondent: Santos & Bernardi Investments

Ridgewood Drive

Parcel #: 12-22-26-0002-000-01000

Alt Key#: 1509831

Violation of Town Code, Section(s):

1. Grading plan for lot.

Sec. 12.5 (b) Land Clearing. Unless exempted herein, it shall be unlawful and subject to the penalties provided herein for any person directly or indirectly by another on his behalf to:

(1) Perform and land clearing or grubbing unless approved a part of a site plan (in accordance with Chapter 6) and/or a subdivision plat approval (in accordance with chapter 8).

(2) Perform tree removal, land clearing, grubbing, grading, excavation, construction, or make or install any improvement upon any site or tract, regardless of the existence of valid permits or approvals for the given activity, unless each protected tree to be preserved pursuant to this chapter has been marked by a highly visible band and unless all protected areas established pursuant to the Land Development Code has been surrounded by a protective barrier.

Corrective action: Present land grading plan to Town.

2. No erosion plan and sediment control presented to Town.

Sec. 4 -608 – Erosion Control and Sediment Plan:

(a) The erosion and sediment control plan shall include the following:

(1) A natural resources map identifying soils, forest cover, and resources protected under other chapters of this Code. This map should be at a scale no smaller than 1" = 100'.

(2) A sequence of construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, and buildings, and final grading and landscaping.

(3) All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and permanently, after completion of the site's development. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.

(4) Sodding of all disturbed areas required. Types of sod, type and rate of lime and fertilizer application, and kind and quality of mulching for both temporary and permanent vegetative control measures.

(5) Provisions for maintenance of control facilities, including easements.

(b) *Modifications to the plan.* Major amendments of the erosion and sediment control plan shall be submitted to the town and shall be processed and approved, or disapproved, in the same manner as the original plans. Field modifications of a minor nature may be authorized by the town by written authorization to the permittee.

Corrective action: Present Erosion plan and sediment control to town permitting.

3. No erosion control.

Sec 4-610 Erosion Control: No erosion shall be allowed such that soil is discharged from the site to the adjacent public or private properties. Should such erosion occur, the discarded soil should be removed within 24 hours and the permittee shall be subject to penalties as set forth in section 1-12.

(1) Soil stabilization shall be completed within five days of clearing or inactivity in construction.

(2) If sodding has not become established within two weeks, the town may require that a nonvegetative option be employed.

(3) On steep slopes or in drainageways, special techniques that meet the design criteria outlined in the FDEP's Erosion and Sediment Control Manual shall be used to ensure stabilization.

(4) Soil stockpiles must be stabilized, covered at the end of each workday or surrounded with silt fence.

(5) Techniques shall be employed to prevent the blowing of dust or sediment from the site.

(6) Techniques that divert upland runoff past disturbed slopes shall be employed.

(7) Sediment controls shall be provided as follows:

a. Sediment controls shall be provided in the form of settling basins or sediment traps or tanks, and perimeter controls as necessary.

b. Where possible, settling basins shall be designed in a manner that allows adaptation to provide long-term stormwater management.

c. Adjacent properties shall be protected by the use of a vegetated buffer strip in combination with perimeter controls.

Corrective Action: Erosion/sediment control measures must be taken.

4. Right of Way destruction

Section 22.1 Purpose and intent. The physical alteration, either temporary or permanent, of any public right-of-way that is under the jurisdiction of the town, or any activity that results in an impediment within a public right-of-way that is under the jurisdiction of the town, shall require a right-of-way utilization permit be issued by the town for such alteration or impediment.

Corrective Action: Return Right of Way to original condition.

Date violation observed: February 14, 2022

Date by which the violation was to be corrected: February 24, 2022.

Case No. CE 2022-04

Respondent: Mr. and Mrs. Frederick Fricker

16525 Lowry Road

Parcel # 02-22-26-0200-006-00008

Alt Key#: 3921582

Violation of Town Code, Section(s):

Sec. 4-610. - Erosion control.

No erosion shall be allowed such that soil is discharged from the site to the adjacent public or private properties. Should such erosion occur, the discarded soil should be removed within 24 hours and the permittee shall be subject to penalties as set forth in section 1-12.

(1)Soil stabilization shall be completed within five days of clearing or inactivity in construction.(2)If sodding has not become established within two weeks, the town may require that a nonvegetative option be employed.(3)On steep slopes or in drainageways, special techniques that meet the design criteria outlined in the FDEP's Erosion and Sediment Control Manual shall be used to ensure stabilization.(4)Soil stockpiles must be stabilized, covered at the end of each workday or surrounded with silt fence.(5)Techniques shall be employed to prevent the blowing of dust or sediment from the site.(6)Techniques that divert upland runoff past disturbed slopes shall be employed.(7)Sediment controls shall be provided as follows: a. Sediment controls shall be provided in the form of settling basins or sediment traps or tanks, and perimeter controls as necessary. B . Where possible, settling basins shall be designed in a manner that allows adaptation to provide long-term stormwater management. c. Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.

Corrective Action: You will need to submit an erosion control plan and institute measures within town code.

Sec. 4-612. - Construction site access.

(a)A temporary access road shall be provided at all sites.(b)Other measures may be required, at the town's discretion, in order to ensure that construction vehicles do not track sediment onto public streets, or washed into storm drains.

Sec. 12-151. - Purpose and applicability.

(a)During the construction of improvements, soil can be transported as dust and sediment carried by wind, water, and other forces. This erosion can cause negative impacts to surrounding properties and public rights-of-way.(b)This article shall govern the protection of soil and the prevention of its erosion when it is most likely to occur, during the construction process.(c)The construction process shall be considered from the date that a building permit (or development permit/zoning release if a building permit is not required) is issued to the date that a certificate of occupancy is issued. This shall include both active and abandoned construction projects.(d)The article shall apply to all lands within the town.

Sec. 12-152. - Construction management plan.

A construction management plan shall be submitted to the town clerk with the application for any zoning release or building permit that includes any clearing, excavating, removal of significant vegetation (greater than 200 square feet), or other earthwork. The construction management plan shall include the following information:

(1)Existing buildings, driveways, pavement, and other improvements.(2)Proposed buildings, driveways, pavement and other improvements.(3)For all projects other than single-family residential construction or improvements, existing one-foot contours as determined by a Florida-licensed land surveyor.(4)For single-family residential construction or improvement projects, approximate existing slopes.(5)Proposed slopes for areas to receive vegetative cover and other non-impervious surfaces such as stone, mulch, etc.(6)Description of existing ground cover and vegetative cover.(7)Description of proposed ground cover and vegetative cover.(8)Location and description of erosion control

measures.(9)Location of any proposed stockpile areas.(10)Description of dust control measures.(11)Description of inspection schedule.(12)Identification of the entity responsible for the installation, operation, and inspection of the dust and erosion control measures.

Corrective Action: Submit a construction management plan.

Sec. 12-153. - Maximum slopes.

(a)The maximum slope of any area to have a final vegetative cover shall not be steeper than 25 percent (four feet horizontal to one foot vertical). Slopes steeper than this shall require the approval of the town engineer, who may withhold approval in his discretion, and shall require special ground cover, retaining walls, or other measures.(b)The maximum slope of any disturbed area within ten feet of the property line shall not exceed ten percent (ten feet horizontal to one foot vertical).

Sec. 12-154. - Installation of erosion control measures prior to the start of construction.

The following erosion control measures shall be installed prior to the start of any clearing or excavation of any site within the town:

(1)Sediment control. Silt fencing that complies with Town Grading Detail G-2 (available from the town clerk) shall be placed at the base of a slope steeper than five percent (20 feet horizontal to one foot vertical) or along the downslope property line if the slope continues beyond the property line. Any area proposed as a stockpile area shall be surrounded by silt fencing or other sediment control measures.(2)Tree protection. All trees that are to remain on the property shall be protected with silt fencing that complies with Town Grading Detail G-2 (available from the town clerk). The silt fencing shall be placed around the dripline of the tree. No excavation shall take place inside the silt fencing other than the installation of approved irrigation water supply lines less than three inches in diameter.(3)Construction entrance. A construction entrance shall be placed adjacent to the paved roadway that is utilized to access the site. The construction entrance shall be a minimum of ten feet wide and 20 feet long (where feasible, with a minimum of ten feet long) and shall be constructed of crushed concrete, large aggregate, or a similar material. All access to or from the site shall be through the construction entrance.(4)Inlet protection. Any stormwater inlets on the subject property or in a public right-of-way within 100 feet of a public right-of-way shall be protected with filter fabric or other sediment, control measures.

Corrective Action: Install sediment fence barriers to eliminate sediment discharge.

Sec. 12-155. - Control of dust during construction.

(a)An exposed area of soil is an area that is greater than 1,000 square feet in size, is not covered with a stable nonvegetative ground cover, and if, covered with a vegetative ground cover, that vegetative ground cover is less than 40 percent. Such areas are susceptible to erosion due to wind and the creation of excessive dust.(b)Any exposed area of soil shall not remain as such for longer than seven calendar days unless water is applied daily to control dust. No more than one-eighth inch of water shall be applied in a single day. Any measurable rainfall during a given day shall be considered an application of water for that day.

Sec. 12-156. - Control of sediment during construction.

Any soil or sediment that is transported off the subject property by dust, erosion, or any reason shall be removed from the area where it has accumulated by the responsible entity within three days. Any eroded soil or sediment, other than planned soil stockpile areas, that collects to a depth of more than six inches and is closer than five feet from any property line shall be relocated on the site or removed from the site within three days.

Corrective Action: Inspect all fences and repair areas that have breached sediment or at risk for breach.

Sec. 12-157. - Inspection of erosion control measures during construction.

Erosion control measures shall be inspected weekly and after every rainfall event greater than one-half inch. The inspection reports shall be retained at the site of the project and shall include the following information:

(1)Date and time of the inspection.(2)Reason for the inspection (weekly or rainfall).(3)List of measures that were inspected.(4)List of any repairs made or maintenance completed.(5)Name and signature of the person conducting the inspection.

Sec. 12-158. - Removal of erosion control measures.

Erosion control measures shall remain in place and be inspected as noted above until the following conditions have been met:

(1)All slopes must be stable with final ground cover.(2)All drainage conveyance channels shall be stable with final ground cover.(3)All areas that are not covered with an impervious surface shall have received stable final ground cover, such a grass, vegetation, mulch, stone, etc.(4)All areas with vegetative cover shall have vegetation that is at least 80 percent successful.(5)The site has been inspected and approved by the mayor or their designated representative, such as the public works superintendent, town engineer, or town planner.

Corrective Action: Install sediment fence barriers to eliminate sediment discharge.

Sec. 12-159. - Violation, enforcement and penalties.

Any violation of this article shall be considered a violation of the Land Development Code and subject to action by the code enforcement board. Additionally, a certificate of occupancy may be denied due to a violation of this article.

Date violation observed:

June 21, 2021

December 15, 2021

February 22, 2022

March 1, 2022

March 7, 2022

March 8, 2022

Date by which the violation was to be corrected: December 22, 2021

Case Number: 2022-02

Respondent: Mr. Edward Eldridge

16931 Franklin Avenue, Montverde Florida

Parcel ID: 01-22-26-1000-001-00003

Alternate Key: 1531055

Violations:

Violation of Town Code, Section(s):

Fence Installed without permit

Section 4-260 states *“the construction of any fence shall require a building permit from the town. Before the building permit is issued, the applicant shall submit plans which shall show the dimension of the property, the type of fence proposed to be constructed and its location of the property”*

Corrective Action: Fence installed without a permit. You need to apply for a permit and pay permit fees.

Alteration made to exterior of building without a permit

Section 5-42 states *(c) Permit and permit fee required. It shall be unlawful for any person, firm or corporation to construct, erect, alter, repair, enlarge, move or demolish any building or structure; or to erect, install, enlarge, alter, repair, remove, correct or replace any electrical, gas, mechanical or plumbing system or cause any such work to be done within the Town of Montverde without first making application and obtaining a permit therefore from the building department, and upon payment of fees.*

Corrective Action: You will need to obtain a permit and pay permit fees for these alterations. Structures must conform to Town building codes.

Date of Violation: January 20, 2022

Date by which the violation was to be corrected: January 30, 2022

VI. CONTINUED CASES:

Case No. CE 2021-02

Respondent: Parque Verde LLC

Parcel ID #'s 09-22-26-0201-017-00000 & 11-22-26-0002-000-04100

Alt Key #'s: 1029490 & 3779570

Violations: Violation of Town Codes, Section(s):

1. Construction of a fence without a Zoning Clearance and Permit:
Section 4-260 of Montverde Land Development Code states no fence shall be constructed without a Zoning Clearance and Building Permit from the Town.
2. Construction of two (2) driveways without a Zoning Clearance and Permit:
Section 4-84 of Montverde Land Development Code states no driveway or driveway apron may be constructed without a Zoning Clearance and Building Permit from the Town.
3. Removal of trees without a Tree Permit:
Chapter 10, Sec. 12-3 of the Montverde Land Development Code states no trees shall be cleared or removed without obtaining a Permit from the Town.
4. Storage and sale of retail and/or wholesale nursery items:
Chapter 10, Sec. 10-51, R1L-Single-family low density district states any use not listed as a permitted or conditional use as outlined in this section is considered a prohibited use. The storage and sale of retail and/or wholesale nursery items is prohibited until the property is rezoned.

Date of violation: February 2, 2021

Date by which the violation was to be corrected: March 4, 2021.

Case No. CE2021-12

Respondent: Eric Delisle

16829 Ridgewood, Montverde, FL 34756

Parcel ID # 01-22-26-1400-001-01201, Alt Key 2996901

Violations: Violation of Town Code, Section(s):

1. Building without a permit; interior/exterior alterations being done and solar panels being added with alteration to the electrical system.
Sec 5-42 (c) Permit and Permit fee required. It shall be unlawful for any person, firm or corporation to construct, erect, alter, repair, enlarge, move or demolish any building or structure; or to erect, install, enlarge, alter, repair, remove, correct or replace any electrical, gas, mechanical or plumbing system or cause any such work to be done within the Town of Montverde without first making application and obtaining a permit therefore from the building department, and upon payment of fees as adopted herein.
2. Inoperable vehicle parked in yard.
Sec. 24-35 (a) Abandoned, disabled or inoperable vehicles or vehicles that are not allowed to be operated on a public roadway (such as dirt bikes, all-terrain vehicles, oversized four-wheel drive vehicles with non- DOT approved tires, unlicensed hobby vehicles) must be parked in an

enclosed structure or hidden from public view completely by an opaque fence or wall. Such vehicles may be parked on a Florida DMV licensed trailer. This applies to both residential and ORC Zoned areas.

3. Dumping mulch and trash in right of way.

Sec. 18-73. - It shall be unlawful and subject to penalties provided in this article to deposit garbage or weeds of any kind upon any vacant, occupied, or unoccupied premises within the town, or upon any street, alley, parkway, or park, or in any canal, waterway, rock pit, pool, or lake within the town. Garbage means every accumulation of paper, excelsior, rags, wooden and paper boxes or containers, sweepings and all other accumulation of waste materials which are usual to housekeeping and to the operation of stores, offices and other business places, including bottles, cans and containers; unsightly junk, wood, brick, cement block or other debris, refrigerators, furnaces, washing machines, stoves, machinery, inoperable or derelict motor vehicles or equipment or parts thereof; anything worthless, useless or discarded; rubbish; worthless, unwanted material that is rejected or thrown out; debris, litter; discarded animal and vegetable matter, as from a kitchen; and refuse.

Date of initial inspection: September 6, 2021

Date by which the violation was to be corrected: September 23, 2021

Date of Reinspection: October 6, 2021

Case No. 2021-23

Respondent: Edwin Santos

17115 Franklin Avenue, Montverde, FL 34756

Parcel # 02-22-26-0900-002-00500, Alt Key 2868384

Violations: Violation of Town Code, Section(s):

1. Construction of fence without a permit.

Section 4-260 states "the construction of any fence shall require a building permit from the town. Before the building permit is issued, the applicant shall submit plans which shall show the dimension of the property, the type of fence proposed to be constructed and its location of the property"

2. Fence installed in right of way.

Section 22-1 states "The physical alteration, either temporary or permanent, of any public right of way that is under the jurisdiction of the town, shall require a right of way utilization permit be issued by the town for such alteration or impediment."

3. Alterations to building without permit.

Section 5-42 states (c) Permit and permit fee required. It shall be unlawful for any person, firm or corporation to construct, erect, alter, repair, enlarge, move or demolish any building or structure; or to erect, install, enlarge, alter, repair, remove, correct or replace any electrical, gas, mechanical or plumbing system or cause any such work to be done within the Town of Montverde without first making application and obtaining a permit therefore from the building department, and upon payment of fees as adopted herein.

Date of initial inspection: September 20, 2021

Date by which the violation was to be corrected: October 4, 2021

Date Issued notice of violation: October 27, 2021

Date of Reinspection: November 9, 2021

Continued from: November 17, 2021

If a person decides to appeal any decision made by the Board, Agency or Commission with respect of any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purposes, he or she may need to ensure that a verbatim records of the proceedings be made, which record includes the testimony and evidence upon which the appeal is based.

In accordance with the Americans with Disabilities Act (ADA), if a person with a disability defined by the ADA needs special accommodation to participate in this proceeding, then not later than two (2) business days prior to the proceeding, he or she should contact the Town of Montverde, at 17404 Sixth St., Montverde, FL (407) 469-2681.

Notice is hereby given, that one or more Members of the Montverde Town Council may be present at this meeting.