



Interoffice Memorandum

April 27, 2022

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Joseph C. Kunkel, P. E., Director, Public Works Department

CONTACT PERSON: Dale V. Mudrak, P. E., Manager
Development Engineering Division

PHONE NUMBER: (407) 836-7974

SUBJ: Bishop & Buttrey Borrow Pit #188
Excavation Borrow Pit Permit No. 21-E5-0105

Mr. Vic McCall of Bishop & Buttrey, Inc. has applied for Excavation Borrow Pit Permit No. 21-E5-0105, a borrow pit located in northeast Orange County.

This permit would allow for a 32 acre new borrow pit under permit No. 21-E5-0105. The borrow pit will export approximately 100,000 cubic yards per year of clean fill material.

The A-2 zoned properties are located north of E. Colonial Drive and east of County Road 13. The Parcel ID numbers are 23-22-32-0000-00-001 and 23-22-32-0000-00-004.

Staff recommends approval of the Bishop & Buttrey Borrow Pit #188 subject to General Law and the following additional requirements:

1. The approved haul route for the excavation will be from the entrance to the excavation site south to E. Colonial Drive (SR 50), E. Colonial Drive east or west to approved project sites.
2. Operating and hauling from 7:00 a.m. to 7:00 p.m., Monday through Saturday
3. Notify Development Engineering Inspection at (407) 836-7920 24 hours prior to commencement of operations.
4. All Excavation/Fill activities shall be in accordance with approved plans and the Orange County Excavation/Fill Ordinance (Chapter 16, Orange County Code).
5. The facility shall be open to the County for the purpose of inspection during normal working hours of the facility and at any other time when work is in progress. During periods of inactivity, upon request, the County shall be provided access to the site within one business day.

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6. If a violation of any permit condition is discovered by the County at the facility, upon receipt of a notice of violation, the permittee will be required to address the alleged violation(s) to the satisfaction of the County within a timeframe set forth by the County. Failure to do so may result in civil penalties and/or closure of the facility operations as permitted until such time or unless the violations are corrected. The financial assurance provided by the permittee may be used by the County to remedy and cure violations if the permittee is non-responsive in doing so.
7. Approval of this permit does not constitute either a land-use classification change to Orange County's Comprehensive Plan or a rezoning of any type. Furthermore, solid waste disposal, solid waste management, and the disposal of materials from the construction or demolition of a road or other transportation facility, as contemplated by Section 163.3194 of Florida Statutes, is not in any way a purpose of this permit.
8. No work authorized under this approval shall begin without compliance with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable laws, ordinances, and regulations are expressly waived or modified by these conditions, or by action by the Board.
9. Parcels 23-22-32-0000-00-001 and 23-22-32-0000-00-004 shall not be used as a landfill unless approved by the Board of County Commissioners.
10. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of a state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
11. By accepting this permit, the permittee understands and agrees that the permittee will, at all times, (1) comply with all terms and conditions of the permit and any ordinances and regulations relating to the permit; (2) assume all the risk associated with the exercise or attempted exercise of its rights and privileges under this permit; and (3) indemnify, defend, and save harmless Orange County from and against all losses, damages, costs, and expenses arising in any manner on account of the exercise or attempted exercise of the permittee's rights and privileges under this permit, including, but not limited to, any actions or disputes based on claims of negligence, trespass, quiet title, inverse condemnation, and any actions for injunctive or declaratory relief. Accordingly, the permittee shall pay and reimburse Orange County for all damages, attorney fees, and

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costs that Orange County may incur as a result of any threatened litigation, actual litigation, trials, appeals arising in any manner from the issuance of this permit, and the permittee's exercise or attempted exercise of its rights and privileges under the permit.

Action Requested: Approval of the Bishop & Buttrey Borrow Pit #188 and authorization to issue Excavation Borrow Pit Permit No. 21-E5-0105 to Bishop & Buttrey, Inc. District 5.

DVM/cmck

Attachment