




Interoffice Memorandum

DATE: September 12, 2019

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

FROM: Jon V. Weiss, P.E., Director 
Planning, Environmental, and Development Services
Department

CONTACT PERSON: **Brandy Driggers, Assistant Manager**
Zoning Division 407-836-5329

SUBJECT: September 24, 2019 – Public Hearing
Applicant: Bishop and Buttery, Incorporated
BZA Case #SE-19-05-039, August 1, 2019; District 5
(Related to case SW-19-03-001 and PW-07-E5-0717)

Board of Zoning Adjustment (BZA) Case # SE-19-05-039, located on the north side of E. Colonial Drive, east of North County Road 13, Orlando, FL 32820, in District 5, is a public hearing to be heard on September 24, 2019. The applicant is requesting a special exception to allow a yard trash processing facility. This public hearing will be heard concurrently with hearings for (1) Solid Waste Management Facility Permit Application SW-19-03-001 and (2) Excavation and Fill Application PW-07-E5-0717.

At the August 1, 2019 BZA hearing, staff recommended approval of the special exception, as the proposed yard trash facility is compatible with the area. There is a borrow pit on the site and another yard trash processing facility to the west that is not affiliated with this request, but received special exception approval in 2017. Both of these uses are currently operational. The BZA heard testimony from twelve (12) constituents in opposition to the request and one (1) constituent in favor of the request. The applicant stated that they understood the concerns the neighbors voiced at the community meeting held on Tuesday, June 18, 2019, and provided studies in response to those concerns at the August 1, 2019 BZA hearing. The BZA recommended approval of the special exception subject to the eleven (11) conditions found in the staff report.

The application for this request is subject to the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

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September 24, 2019 – Public Hearing
Bishop and Buttery, Incorporated
BZA Case #SE-19-05-039, August 1, 2019; District 5

If you have any questions regarding this matter, please contact Brandy Driggers, Assistant Manager at 407-836-5329.

ACTION REQUESTED: Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or deny the applicant's request. District 5.

**PLANNING, ENVIRONMENTAL DEVELOPMENT SERVICES
DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT
September 24, 2019**

The following is a public hearing before the Board of County Commissioners on September 24, 2019 at 2:00 p.m.

APPLICANT: BISHOP AND BUTTREY, INC.

REQUEST: Special Exception in the A-2 zoning District to allow a yard trash processing facility

LOCATION: E. Colonial Drive, Orlando, FL 32820, north side of E. Colonial Drive, east of North County Road 13

TRACT SIZE: 326 acres

ZONING: A-2

DISTRICT: #5

PROPERTIES NOTIFIED: 2,099

BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:

The applicant is proposing a yard trash processing facility on the easternmost 60 acres of the subject property. The proposed location of the facility is approximately 4,500 ft. away from the closest residence to the west.

Staff explained the site, location map, showed site photos, and provided a recap of the community meeting. Staff recommended approval of the use, as there is an existing borrow pit on-site and the use is isolated from any nearby residential properties.

The applicant stated they understood the neighbor's concerns and submitted a study in response to the citizens' concerns. The applicant's Engineer explained the proposed request, how the operation would function, the timeline of the different processes, and how the applicant will monitor the proposed use. The applicant also provided a revised sound study based on an on-site test of the actual machinery that would be used on the property which demonstrated that there would be no sound reaching the nearest residence which is 4,500 feet away.

There were twelve (12) people who spoke in opposition and one who spoke in support. They had concerns about traffic, vibrations/noise, pollution into the groundwater, impacts to wildlife, pollution, and believed this would be an intrusion.

In rebuttal, the applicant provided the results of a traffic study which showed that there would be no appreciable increase in traffic, but they would be making some improvements to the entrance.

The BZA discussed the use at length. The unanimous conclusion was that the application satisfied all six (6) of the criteria for a Special Exception, including not creating any negative intrusion into any nearby neighborhoods. A vote to recommend approval passed unanimously.

BZA HEARING DECISION:

A motion was made by Wes A. Hodge, seconded by Juan Velez and unanimously carried to APPROVE the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions (unanimous; 4-0 and 3 absent):

1. Development in accordance with the site plan dated May 8, 2019 and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing
2. 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 state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Concrete, asphalt, or rock crushing shall be prohibited.
5. No impacts to any approved Conservation Areas without Orange County approval.
6. Outdoor burning shall be prohibited.
7. Fire suppression and water supply shall be subject to the review and approval of the Fire and Rescue Division of Orange County at the time of permit review.

8. A minimum twenty-five (25) foot wide access fire lane shall be provided and maintained around the perimeter of the processing area and down the center of the processing area.
9. Hours of operation shall be Monday to Saturday from 7:00 a.m. to 7:00 p.m.
10. All required permits shall be obtained within two (2) years or this approval is null and void.
11. The wood chipper and grinder shall only be used for a one (1) week period on a quarterly basis.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **JUL 08, 2019**

Case Planner: **Dave Nearing**

Case #: **SE-19-05-039**

Commission District: **#5**

GENERAL INFORMATION

APPLICANT(s): BISHOP AND BUTTREY, INC.

OWNER(s): HONEY BEE HOLDINGS LLC

REQUEST: Special Exception in the A-2 zoning district to allow a yard trash processing facility.

PROPERTY LOCATION: E. Colonial Dr., Orlando, FL 32820, north side of E. Colonial Dr., east of N. County Road 13

PARCEL ID: 23-22-32-0000-00-004

LOT SIZE: 326 acres

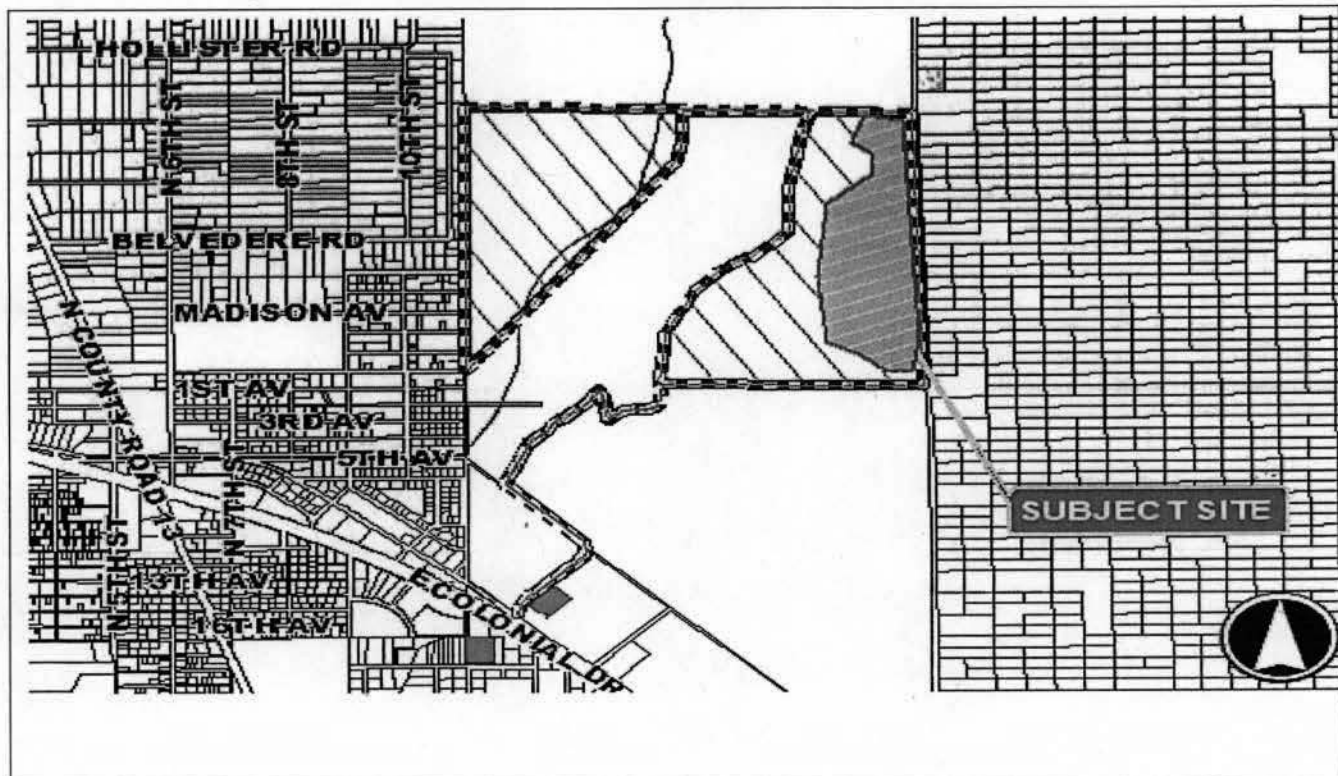
NOTICE AREA: 1 mile

NUMBER OF NOTICES: 2,099

STAFF RECOMMENDATIONS

Approval subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-2/ P-D	A-2	A-2	A-2	R-T-2
Future Land Use	Rural	Rural	Rural	Rural	RS 1/1
Current Use	Borrow Pit	Vacant	Vacant	Vacant	Residential

BACKGROUND AND ANALYSIS

Description and Context

The property is located in the A-2 Farmland Rural zoning district, which allows agricultural uses, mobile homes, and single-family homes with accessory structures on larger lots. Yard trash facilities are allowed as a special exception in this zoning district.

The property is an irregular shaped property with two large areas, which are connected by strips of land. The front portion of the property is zoned P-D and is located in the Shadow Pines P-D. This P-D allows mobile homes and commercial uses. The service road for the subject property that bisects this P-D is allowed per the P-D documents on file.

There is an existing borrow pit on site and the applicant is requesting to add the yard trash processing facility use. According to the applicant, the operation will be developed in seven phases. The overall acreage of the proposed use is approximately 60 acres, and it will be located in the easternmost portion of the 326 acre property.

A yard trash processing facility is "a yard trash transfer station or a facility at which yard trash is processed into a size-reduced, usable material or is composted, but does not include a facility used for the disposal of yard trash. "

The project area is surrounded by vacant agricultural properties on all sides. The closest residence is located approximately 4,500 ft. to the west of the proposed yard trash facility.

A Construction and Debris Landfill facility was approved on the adjacent property to the south (was all one lot at the time) in 2000, however that facility was never developed.

In December 2017, a yard trash processing facility was approved on the property to the west, which was permitted to have up to 12,000 cubic yards. The operation is currently operating.

The applicant plans to use the leftover soil from this proposed operation to fill in the existing borrow pit. This process must be approved by EPD and Development Engineering and is not part of the request today.

This project was approved by DRC on June 26, 2019, and DRC deemed the use compatible with the surrounding land uses, which is required by Chapter 32 prior to being heard by the BZA.

A Community Meeting was held on Tuesday June 18, 2019 at East River High School. Staff, the District 5 Commissioner, District 5 Aide, and approximately fifty (50) residents were in attendance. The residents had concerns regarding traffic, dust, noise, soil contamination, and the operation of heavy equipment. The applicant is preparing a noise study and soil study, and will coordinate with Public Works regarding the traffic to address the concerns brought up at the community meeting.

The applicant conducted a noise study at their site on Friday July 19, 2019 and will provide the results of that study at the August 1, 2019 BZA meeting.

This request was heard at the July 8, 2019 BZA meeting and was continued to allow the applicant to conduct a noise study. At the hearing residents spoke in opposition to the request and had concerns about noise, traffic, groundwater contamination, etc.

District Development Standards

	Code Requirement	Proposed
Max Height:	35	25
Min. Lot Width:	100	3,000
Min. Lot Size:	.5 acres	326 acres

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	35	200
Rear:	50	400
Side:	10 / 10	50 / 200 +
Sidestreet:	n/a	n/a
NHWE:	n/a	n/a

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

The use shall be consistent with the Comprehensive Policy Plan.

The future land use is Rural and with the approval of the Special Exception, the use will be consistent with the Comprehensive Plan.

The use shall be similar and compatible with the surrounding area and shall be consistent with pattern of surrounding development.

There is an existing borrow pit on the property which utilizes large equipment. This proposed use will be compatible with the surrounding uses on the property. The parcels directly to the east are undeveloped parcels of land. Another yard trash processing facility was approved in 2017 on the parcel to the west and is operating at this time.

The use shall not act as a detrimental intrusion into a surrounding area.

The borrow pit has been on-site for several years, and the uses surrounding the proposed development area include other borrow pits, wetlands and undeveloped agricultural land.

The use shall meet the performance standards of the district in which the use is permitted.

The use is meeting all zoning development standards outlined in Chapter 38; however they are requesting waivers from Chapter 32 solid waste requirements, which are not under the purview of the BZA.

The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of the uses currently permitted in the zoning district.

The agricultural zoning district allows a variety of uses including farming, keeping of livestock, residential homes, plant nurseries etc. The proposed use may produce some noise, dust, and vibrations. However, as the proposed use is located over 4,500 feet away from any residential homes, the use shall not affect the surrounding residential community. The applicant will prepare a noise study based on the equipment that is going to be utilized.

Landscape buffers shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.

There is existing vegetation surrounding the property and there is no vegetative buffer required by Chapter 24 between agricultural properties.

CONDITIONS OF APPROVAL

1. Development in accordance with the site plan dated May 8, 2019 and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
2. 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 state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Concrete, asphalt, or rock crushing shall be prohibited.
5. No impacts to any approved Conservation Areas without Orange County approval.
6. Outdoor burning shall be prohibited.
7. Fire suppression and water supply shall be subject to the review and approval of the Fire and Rescue Division of Orange County at the time of permit review.
8. A minimum twenty-five (25) foot wide access fire lane shall be provided and maintained around the perimeter of the processing area and down the center of the processing area.
9. Hours of operation shall be Monday to Saturday from 7:00 a.m. to 7:00 p.m.
10. All required permits shall be obtained within two (2) years or this approval is null and void.
11. The wood chipper and grinder shall only be used for a one (1) week period on a quarterly basis.

C: Bishop and Buttrey, Inc.
933 Lee Rd.
Orlando, FL 32810

C: Mr. James E. Golden
6140 Edgewater Dr.
Orlando, FL 32810

COVER LETTER



March 13, 2019

EMAIL/HAND DELIVERY

Mr. Sean Bailey, Chief Planner
BZA Section, Orange County Zoning Division
Community, Environmental, and Development Services Department
201 South Rosalind Ave.
Orlando, FL 32801

Subject: Special Exception and Variance Request
Yard Trash Processing Facility
Bishop and Buttrey, Inc. 18993 Old Cheney Road
Bithlo, Florida
Parcel ID: 23-22-32-0000-00-004
Project No. 291430

Dear Mr. Bailey:

On behalf of Bishop and Buttrey, Inc. (B&B), Grove Scientific & Engineering Co. (GSE) is submitting this special exception and variance application to the Board of Zoning Adjustment (BZA) for the subject yard trash processing facility operation in Orange County, Florida. The B&B yard trash, or source-separated organics processing facility (SOPF), is proposed to be located on their existing permitted 60 acre excavation, Pit # 164, Orange County (permit # 07-E5-0717) on the far east side of the 326 acre parcel. The Facility would comply with the requirements of Chapter 32, Article V, of the Orange County Solid Waste Management code. An OCEPD permit application has been filed, in addition to a DRC application.

The required BZA application forms, ownership documentation and site boundary survey for the variance and special exception requests are attached in Appendix 1. Appendix 2 presents the Operations Plan and Engineering drawings for the B&B SOPF to support the subject request. A check for the \$1,355 fee is enclosed.

Variance Request

The B&B site is zoned agricultural A-2, which allows for this type of land use under the County solid waste management code. However, under the Section 32-216 of the code, a 150-foot setback is required from an abutting property to the solid waste facility use. OC code section 32-215 (a) allows for a variance from the "landfill" setbacks for a yard trash facility. All other code setbacks are met on all sides of the site, except to the immediate east, where Orange County agricultural property exists along the east and north sides of the 60 acre site.

This application requests that the setback from the OCBCC property be 50 feet, see attached Site Plan, Appendix 2, Sheet 4. These reduced setbacks in no way will affect the performance of the OCBCC agricultural property or dirt roadway. The abutting County property is also not

6140 EDGEWATER DRIVE • SUITE F • ORLANDO, FLORIDA 32810-4810
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occupied, nor used for any other active use, other than open space. The closest residential neighborhood is more than 4,000 feet to the west of the site, see Operations Plan, Figure 1.

The following standards of approval have been met for this variance request:

- **Special Conditions and Circumstances** - Special conditions and circumstances exist which are peculiar to the B&B yard trash facility which are not applicable to other lands, structures or buildings in the same zoning district. The current pit #164 location has been accepted by the OC Development Engineering. This request is not to nullify a zoning violation or nonconformities on neighboring properties.
- **Not Self-Created** - The special conditions and circumstances of the subject site were not result from the actions of the applicant. The applicant has received a variance of a 25-foot setback, from the code required 50- foot setback for the excavation along the east and north sides, see attached excavation permit conditions, Appendix 1.
- **No Special Privilege Conferred** - Approval of the zoning variances requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.
- **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.
- **Minimum Possible Variance** - The zoning variance of a 50-foot setback from the OC property and from the dirt road are the minimum variances that will make possible the reasonable use of the land.
- **Purpose and Intent** - Approval of the zoning variances will be in harmony with the purpose and intent of the A-2 Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Special Exception Request

Under Orange County Code Chapter 32, all solid waste facilities, which includes a yard trash processing facility, must obtain a special exception from the BZA. This facility will comply with the OC solid waste management code and the following Section 38-78, Orange County Code specific criteria to be met for all Special Exception requests:

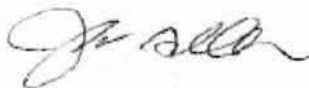
- The use shall be consistent with the Comprehensive Policy Plan- The proposed use is consistent with the County Comprehensive Plan, in that it is within an A-2 zoning, complies with OC Solid Waste facility code, and FDEP rules. It is also consistent with

the County's Orange to Green Plan, Comp Plan, Solid Waste Element, Objective OBJ SW1.2 "to implement alternative means of solid waste management to reduce landfill disposal", and the State of Florida's 75% recycling goal.

- The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development-The wood recycling use is similar and compatible with the surrounding agricultural and excavation uses. It is also consistent with the surrounding development, which is rural-open space, vegetated lands or lakes. A similar facility, 19161, LLC yard trash processing facility is located on the western portion of the 326 acre property, see Appendix 2, Sheet1.
- The use shall not act as a detrimental intrusion into a surrounding area- The use has been in operation on adjacent parcels for almost 30 years on the property. The site is surrounded by agricultural, undeveloped land and borrow pits.
- The use shall meet the performance standards of the district in which the use is permitted-The use meets the performance standards of the A-2 district.
- The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district. The Operations Plan for the facility, and the OCEPD permit conditions, will be followed to control any noise, vibration, dust, odor, glare, heat producing impacts from the use, see attached Operations plan.
- Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted. A natural buffer of more than 2,500 feet of open, vegetated land surrounds the use on the west and south sides, and a 50-foot buffer along the east and north sides, which meets the intent of the landscape buffer yard.

We trust that this application meets the Zoning Division's variance and special exception approval requirements. Please contact us with any questions.

Sincerely,
Grove Scientific & Engineering Company



James Golden, P.G.
Vice President, Senior Scientist

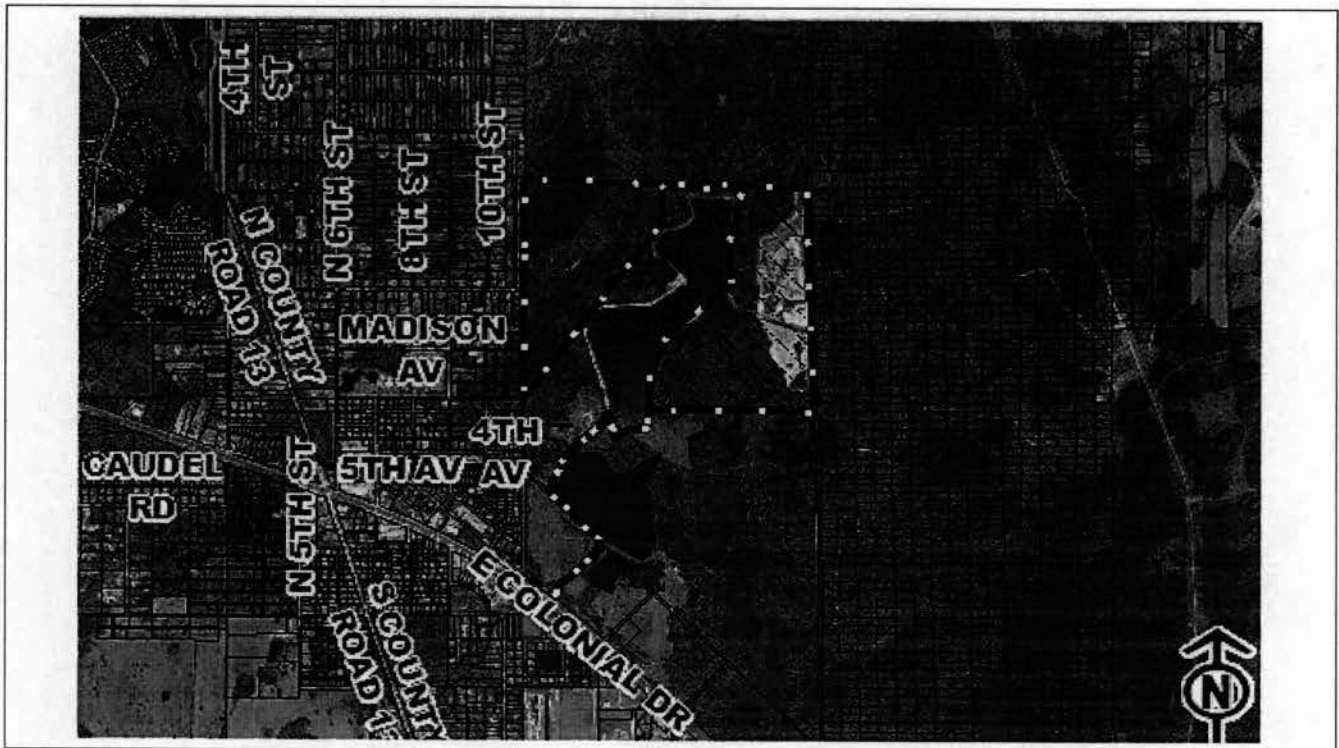
Attachments

Cc: Anna Long, Dean Mead; Vic McCall, B&B; David Bromfield, OCEPD

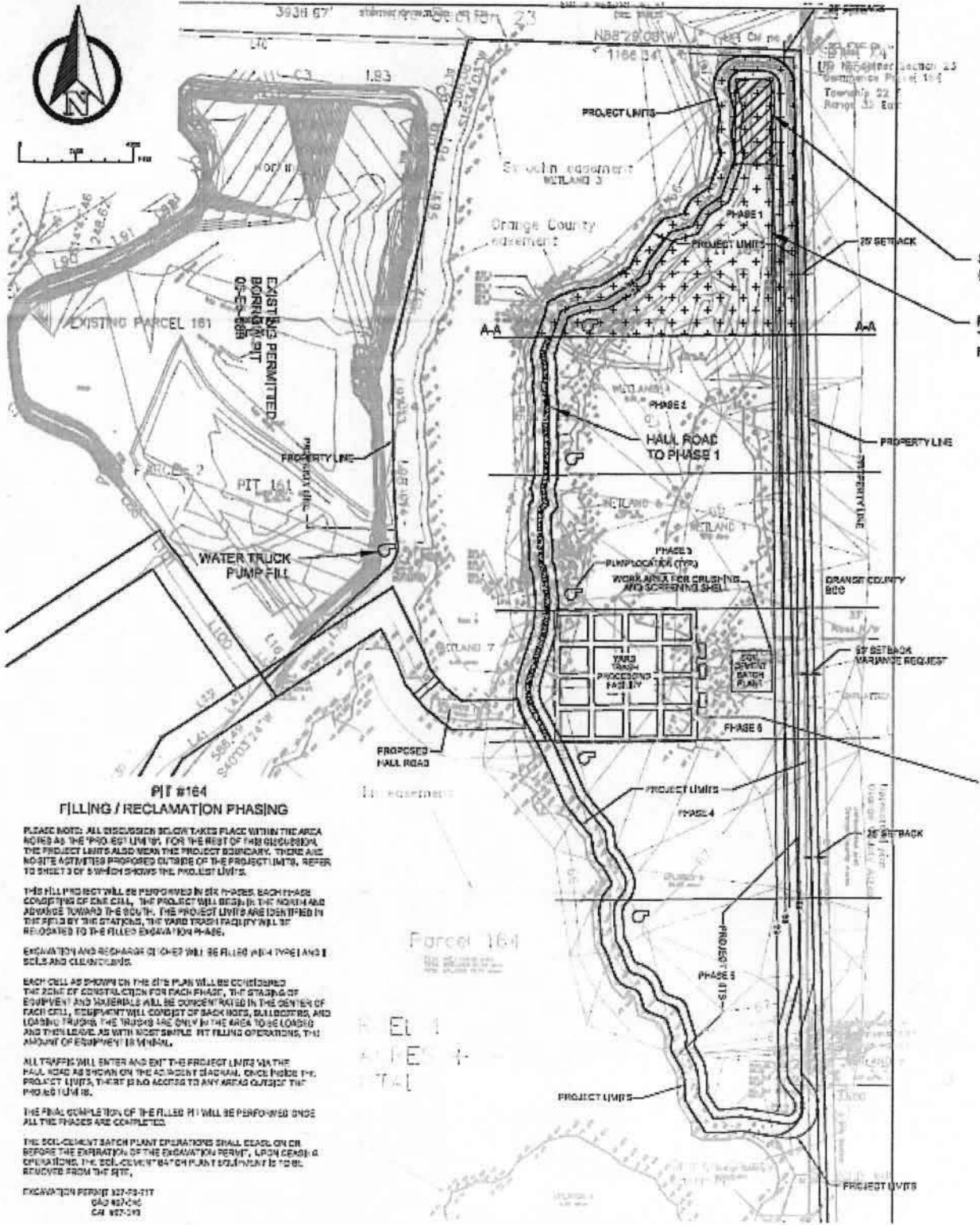
ZONING MAP



AERIAL MAP



SITE PLAN / SURVEY



**PIT #164
FILLING / RECLAMATION PHASING**

PLEASE NOTE: ALL DISCUSSION BELOW TAKES PLACE WITHIN THE AREA BOUND BY THE PROJECT LIMITS. FOR THE REST OF THE DISCUSSION THE PROJECT LIMITS ALSO MEAN THE PROJECT BOUNDARY. THERE ARE NO SITE ACTIVITIES PROPOSED OUTSIDE OF THE PROJECT LIMITS. REFER TO SHEET 3 OF 5 WHICH SHOWS THE PROJECT LIMITS.

THE FILL PROJECT WILL BE PERFORMED IN SIX PHASES. EACH PHASE CONSISTS OF ONE CELL. THE PROJECT WILL BEGIN IN THE NORTH AND ADVANCE TOWARD THE SOUTH. THE PROJECT LIMITS ARE IDENTIFIED IN THE PLAN BY THE STATIONING. THE WARE TRUCK FACILITY WILL BE RELOCATED TO THE FILLED EXCAVATION PHASE.

EXCAVATION AND RECHARGE DITCHES WILL BE FILLED WITH TYPE 1 AND 2 SOILS AND CLEAN SANDS.

EACH CELL AS SHOWN ON THE SITE PLAN WILL BE CONSIDERED THE ZONE OF CONSTRUCTION FOR EACH PHASE. THE STAGING OF EQUIPMENT AND MATERIALS WILL BE CONCENTRATED IN THE CENTER OF EACH CELL. EQUIPMENT WILL CONSIST OF BACKHOES, DUMP TRUCKS, AND LOADING TRUCKS. THE TRUCKS ARE ONLY IN THE AREA TO BE LOADED AND THEN MOVE AS WITH MOST BATTLE FILLING OPERATIONS THE AMOUNT OF EQUIPMENT IS MINIMAL.

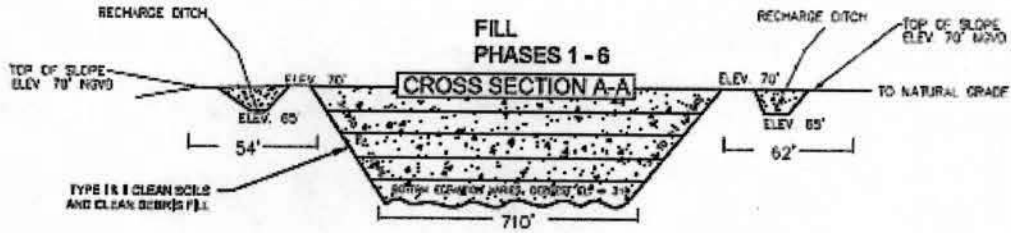
ALL TRAFFIC WILL ENTER AND EXIT THE PROJECT LIMITS VIA THE HALL ROAD AS SHOWN ON THE ACCIDENT DIAGRAM. ONCE INSIDE THE PROJECT LIMITS, THERE IS NO ACCESS TO ANY AREAS OUTSIDE THE PROJECT LIMITS.

THE FINAL COMPLETION OF THE FILLED PIT WILL BE PERFORMED ONCE ALL THE PHASES ARE COMPLETED.

THE SOIL CEMENT BATCH PLANT OPERATIONS SHALL CEASE ON OR BEFORE THE EXPIRATION OF THE EXCAVATION PERMIT. UPON CEASING OPERATIONS, THE SOIL CEMENT BATCH PLANT SOLUTION IS TO BE REMOVED FROM THE SITE.

EXCAVATION PERMIT 327-79-117
CAG 827-216
CA 827-219

MISCELLANEOUS



SOIL / FILL STOCKPILE AREA
 (EST. 50,000 CY) (TYP.)

EXCAVATION FILL SECTION A-A (TYP.)

NTS

PHASE 1
 TYPE I & II SOIL
 FILL AREA (TYP.)



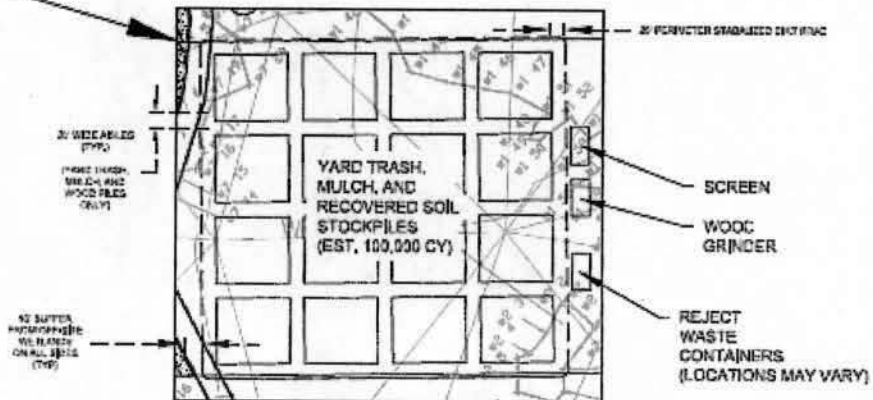
YARD TRASH & WOOD STOCKPILE SECTION (TYP.)

NTS



SOIL TYPE I & II FILL STOCKPILE SECTION (TYP.)

NTS



YARD TRASH PROCESSING AREA DETAILS

NTS



SITE PHOTOS



Existing Borrow Pit



Proposed area of the yard trash processing facility