



Interoffice Memorandum

December 9, 2021

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., Interim Manager  
Development Engineering Division

PHONE NUMBER: (407) 836-7974

SUBJ: Mid Florida Materials 45 Acres Borrow Pit Expansion  
Excavation Permit No. 20-E2-0039 (Original Permit No. 78-E2-0039)

Mr. Mike Stacey of Hubbard Construction Company, Inc. has applied for Borrow Pit Permit No. 20-E2-0039, a borrow pit located in northwest Orange County.

This permit would allow for a 45 acre expansion to the existing borrow pit under permit No. 78-E2-134. The borrow pit expansion will export approximately 275,000 cubic yards per year of clean fill material. The total amount to be excavated is 2,450,000 cubic yards.

The A-1 zoned properties are located north of W. Ponkan Road and west of Golden Gem Road. The Parcel ID numbers are 14-20-27-0000-00-016, 23-20-27-0000-00-042, and 23-20-27-0000-00-002.

Staff recommends approval of the Mid Florida Materials 45 Acre Borrow Pit subject to General Law and the following additional requirements:

1. The approved haul route will be from the existing Mid-Florida Materials Borrow Pit to the entrance at Golden Gem Road, Golden Gem Road south to W. Ponkan Road, W. Ponkan Road east and west to the 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. A waiver from Orange County Code Section 16-8(b)(1)d to allow for a zero (0) setback along the eastern and southern property lines of Parcel ID No. 14-20-27-0000-00-016 in lieu of the required 50-foot setback. A 100-foot undisturbed setback along the north and west property lines is required in lieu a 50-foot setback requirement.

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5. A waiver from Orange County Code Section 16-8(b)(1)d to allow for a zero (0) setback along the northern and eastern property line of Parcel ID No. 23-20-27-0000-00-002 in lieu of the required 50-foot setback. A 50-foot undisturbed setback abutting the parcel on the western property line. A 100-foot undisturbed setback starting approximately 570 feet to the south of the northern property line, and matching the 100-foot setback line in the adjacent parcel to the east is required, in lieu of a 50-foot setback requirement. A five-acre section of this parcel to the south will remain undisturbed as shown on Exhibit "A" and any future use shall be approved by the Board of County Commissioners.
6. A waiver from Orange County Code Section 16-8(b)(1)d to allow a zero (0) setback along the northern, eastern and western property lines of Parcel ID No. 23-20-27-0000-00-042 in lieu of the required 50-foot setback. A 100-foot undisturbed setback along the southern property line is required in lieu of a 50-foot setback requirement.
7. Parcels 14-20-27-0000-00-016, 23-20-27-0000-00-002, and 23-20-27-0000-00-042 shall not be used as a landfill unless approved by the Board of County Commissioners.
8. 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.
9. 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.
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,

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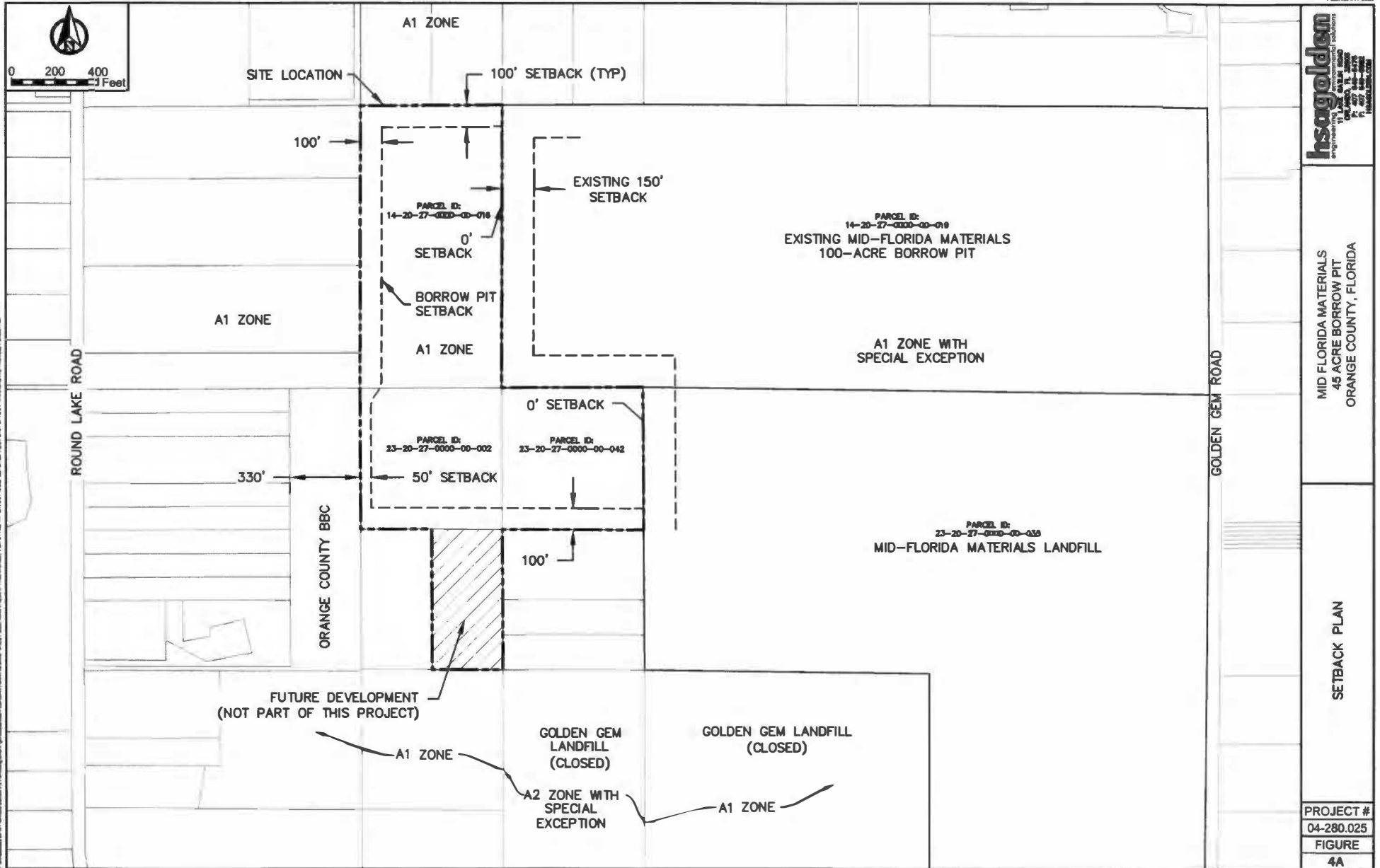
defend, and save harmless Orange County from and against all losses, damages, costs, and expenses arising in any manner on account of the exercise or attempted exercise of the permittee's rights and privileges under this permit, including, but not limited to, any actions or disputes based on claims of 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 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 Mid Florida Materials 45 Acre Borrow Pit Expansion with requested setback waivers, and authorization to issue Excavation Permit No. 20-E2-0039 to Hubbard Construction Company, Inc. District 2.**

DVM/mt/cmK/jo

Attachment

## EXHIBIT A



**EXHIBIT "B"**

