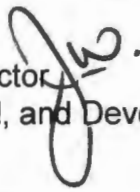




Interoffice Memorandum

January 25, 2021

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

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

CONTACT PERSON: **David D. Jones, P.E., CEP, Manager  
Environmental Protection Division  
(407) 836-1406**

SUBJECT: February 23, 2021 – Public Hearing  
Pulte Home Company, LLC Conservation Area Impact Permit  
Application No. CAI-20-04-027  
(Related to semi-private Boat Ramp Permit Application BR-20-04-001)

This item was continued from the December 15, 2020 meeting. The applicant, Pulte Home Company, LLC, is requesting a Conservation Area Impact (CAI) permit to authorize direct impacts to Class I wetlands and surface waters in order to construct a new semi-private boat ramp for the Sunset Preserve Subdivision. The CAI permit application (CAI-20-04-027) is being processed concurrently with a semi-private Boat Ramp Permit Application (BR-20-04-001).

The project site is located at 4708 Marina Row Drive, Orlando, on the southeastern shoreline of Lake Pickett in District 5. The Parcel ID for the site is 03-22-32-7898-18-001.

The applicant is proposing direct impacts to 0.04 acre of Class I wetlands and surface waters, 0.11 acre of secondary wetland impacts, and 0.05 acre of required upland buffer impacts in order to construct a semi-private boat ramp for the Sunset Preserve subdivision. The parcel is located within the Econlockhatchee River Protection Area and therefore a 50-foot wide upland buffer is required adjacent to Class I wetlands per Orange County Code, Chapter 15, Article XI. The 0.05 acre of impact is to this required upland buffer. The Environmental Protection Division (EPD) previously issued a CAI permit (CAI-18-12-060) that authorized other wetland impacts associated with the development of the subdivision. The mitigation provided for the impacts associated with the original CAI permit included the preservation of 38.47 acres of onsite wetlands and 4.50 acres of upland buffer. The preservation area was placed in a conservation easement, which was recorded on July 19, 2019 (Document No. 20190444863). The amount of mitigation provided under the original CAI permit was more than what was required for the impacts approved by that permit. The excess in mitigation adequately offsets the impacts associated with the boat ramp; therefore, no additional mitigation will be required.

EPD staff has evaluated the proposed impacts and site plan in accordance with the review criteria in Orange County Code, Chapter 15, Article X and Article XI. Pursuant to Article X,

Section 15-396(3)(a), the removal, alteration or encroachment within a Class I conservation area shall only be allowed in cases where no other feasible or practical alternatives exist that will permit a reasonable use of the land or where there is an overriding public benefit.

Additionally, pursuant to Section 15-362(5), where wetlands serve a significant and productive environmental function, the public health, safety and welfare require that any alteration or development affecting such lands should be so designed and regulated so as to minimize or eliminate any impact upon the beneficial environmental productivity of such lands, consistent with the development rights of property owners.

Accordingly, based on the documentation and justifications provided, EPD staff has determined that the applicant has demonstrated the proposed site plan allows for reasonable use of the land, that there are no other feasible or practical alternatives available to further minimize or eliminate impacts to the Class I wetlands, and therefore the request meets the criteria for approval.

The applicant and their agent were sent notification of the December 15, 2020 public hearing via electronic correspondence. Notification of the adjacent property owners is not required; however, a community meeting was facilitated by the applicant on October 20, 2020.

As noted above, the public hearing for this permit request was previously scheduled for the December 15, 2020 meeting of the Board. At that meeting, Commissioner Bonilla requested a continuance to February 23, 2021 in order to address some written concerns and comments that were received by her office just days prior to the hearing. Accordingly, the applicant and EPD facilitated an additional virtual community meeting on January 13, 2021 in order for the applicant to address the concerns and comments received. At the second community meeting, several recommendations were made by the citizens in attendance, the primary one of which was to revise the proposed location of the boat ramp facility to be further away from adjacent wetlands to the south of the designated recreation and boat ramp tract. Following the meeting, EPD requested that the applicant provide a list of the requirements necessary to move the proposed ramp to a different location. EPD received this information on January 20, 2021, and provided it to Commissioner Bonilla's office. In the supplemental information, the applicant indicates that revising the boat ramp location will extend the project timeline by three years and would result in similar impacts as the current proposed location.

There has been no enforcement action taken by EPD on the subject property.

EPD staff has made a finding that the request is consistent with Orange County Code, Chapter 15, Article X, Sections 15-362(5) and 15-396(3)(a), and Article XI, and recommends approval of CAI Permit No. CAI-20-04-027, subject to the conditions listed below.

Specific Conditions:

1. This permit shall become final and effective upon expiration of the 30-calendar day period following the date of rendition of the Board's decision approving the permit, unless a petition for writ of certiorari or other legal challenge has been filed within this

timeframe. Any timely filed petition or other challenge shall stay the effective date of this permit until the petition or other challenge is resolved in favor of the Board's decision.

2. The operational phase of this permit is effective upon the completion of the construction and continues in perpetuity.
3. The wetland impacts must be completed in accordance with 'Wetland Impact Map' prepared by Bio-Tech Consulting, Inc., received by the Environmental Protection Division (EPD) on August 12, 2020. Construction shall be completed within five years from issuance of this permit unless extended in writing. Requests for permit extension must be submitted to EPD prior to the expiration date.
4. Prior to any filling within the 100-year flood zone, a Flood Plain Permit may be required from the Orange County Stormwater Management Division authorizing the fill.
5. The permittee shall notify EPD, in writing, within 30 days of any sale, conveyance, or other transfer of ownership or control of the real property subject to this permit. The permittee shall remain liable for all permit conditions and corrective actions that may be required as a result of any permit violations which occur prior to the transfer of the permit by Orange County to a subsequent owner. If applicable, no permit shall be transferred unless and until adequate financial assurance has been provided and approved by Orange County.
6. For projects which disturb one acre or more of land, or which are less than one acre but are part of a larger common plan of development of sale that is greater than one acre, coverage under a National Pollutant Discharge Elimination System (NPDES) Construction Generic Permit (CGP) is required. Prior to the start of land disturbing activities, which includes demolition, earthwork and/or construction, the operator shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and submit to the Florida Department of Environmental Protection (FDEP) a Notice of Intent (NOI) to obtain coverage under the NPDES CGP, pursuant to the requirements of 62-621.300(4)(a), Florida Administrative Code (F.A.C.). As the Operator of the MS4, copy of the NOI shall also be submitted to the Orange County NPDES Environmental Program Supervisor prior to the start of activities. Copies of the SWPPP, NOI, and FDEP. Upon completion of all land disturbing activities and after final stabilization of the site is complete, the developer/contractor shall submit to FDEP a Notice of Termination (NOT) to end their coverage under the CGP and provide a copy of the NOT to the Operator(s) of the MS4.
7. Turbidity and sediment shall be controlled to prevent off-site, unpermitted impacts and violations of water quality standards pursuant to Rules 62-302.500, 62-302.530, and 62-4.242, F.A.C. Best Management Practices (BMPs), as specified in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (2013 or most current version), shall be installed and maintained at all locations where there is the possibility of transferring sediment, turbidity, or other pollutants into wetlands and/or surface waters due to the permitted activities. BMPs are performance based; if selected BMPs are ineffective or if site-specific conditions require additional measures, then the permittee shall implement additional or alternative measures as necessary to prevent adverse impacts to wetlands and/or surface waters. Turbidity discharging from a site must not exceed 29 Nephelometric Turbidity Units (NTU) over background

for Class III waters and their tributaries or 0 NTU over background for those surface waters and tributaries designated as Outstanding Florida Waters (OFW).

8. Discharge of groundwater from dewatering operations requires approval from FDEP and the applicable Water Management District. The operator/contractor shall obtain an FDEP Generic Permit for the Discharge of Ground Water from Dewatering Operations pursuant to the requirements of Chapters 62-621.300(2)(a) and 62-620, F.A.C., and Chapter 403 FS. Discharges directed to the County's MS4 require an Orange County Right-of-Way Utilization Permit for Dewatering prior to the start of any discharges.

General Conditions:

9. Subject to the terms and conditions herein, the permittee is hereby authorized to perform or cause to be performed, the impacts shown on the application and approved drawings, plans, and other documents attached hereto or on file with EPD. The permittee binds itself and its successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities, including without limitation the performance of the required mitigation, are not in accordance with the conditions of the permit, work shall cease and the permit may be revoked immediately by the Environmental Protection Officer. Notice of the revocation shall be provided to the permit holder promptly thereafter.
10. Prior to construction, the permittee shall clearly designate the limits of construction on-site. The permittee shall advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
11. Construction plans shall be submitted to EPD prior to initiating any construction activities for review and approval. The construction plans shall include, but are not limited to, a site plan clearly depicting the location and acreage of the impact and preservation areas.
12. The permittee shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications in good condition at the construction site. The permittee shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
13. Issuance of this permit does not warrant in any way that the permittee has riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittee. In the event that any part of the structure(s) permitted herein is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent property owner's riparian or other property rights, the permittee agrees to either obtain written consent or to remove the offending structure or encroachment within 60 days from the date of the adjudication. Failure to comply shall constitute a material breach of this permit and shall be grounds for its immediate revocation.
14. This permit does not release the permittee from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit

does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities upon property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 15, Article X of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency the permittee shall comply with the most stringent conditions.

15. The permittee shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.
16. Should any other regulatory agency require changes to the property, permitted activities, or approved mitigation, the permittee shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.
17. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
18. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
19. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to ensure conformity with the plans and specifications approved by the permit.
20. The permittee shall hold and save the County harmless from any and all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.
21. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittee.
22. The permittee agrees that any dispute arising from matters relating to this permit shall be governed by the laws of Florida, and initiated only in Orange County.
23. Pursuant to Section 125.022 FS, issuance of this permit by the County does not in any way create any rights on the part of the permittee 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 permittee fails to obtain the 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.
24. Pursuant to Section 125.022 FS, the applicant shall obtain all other applicable state or federal permits before commencement of development.

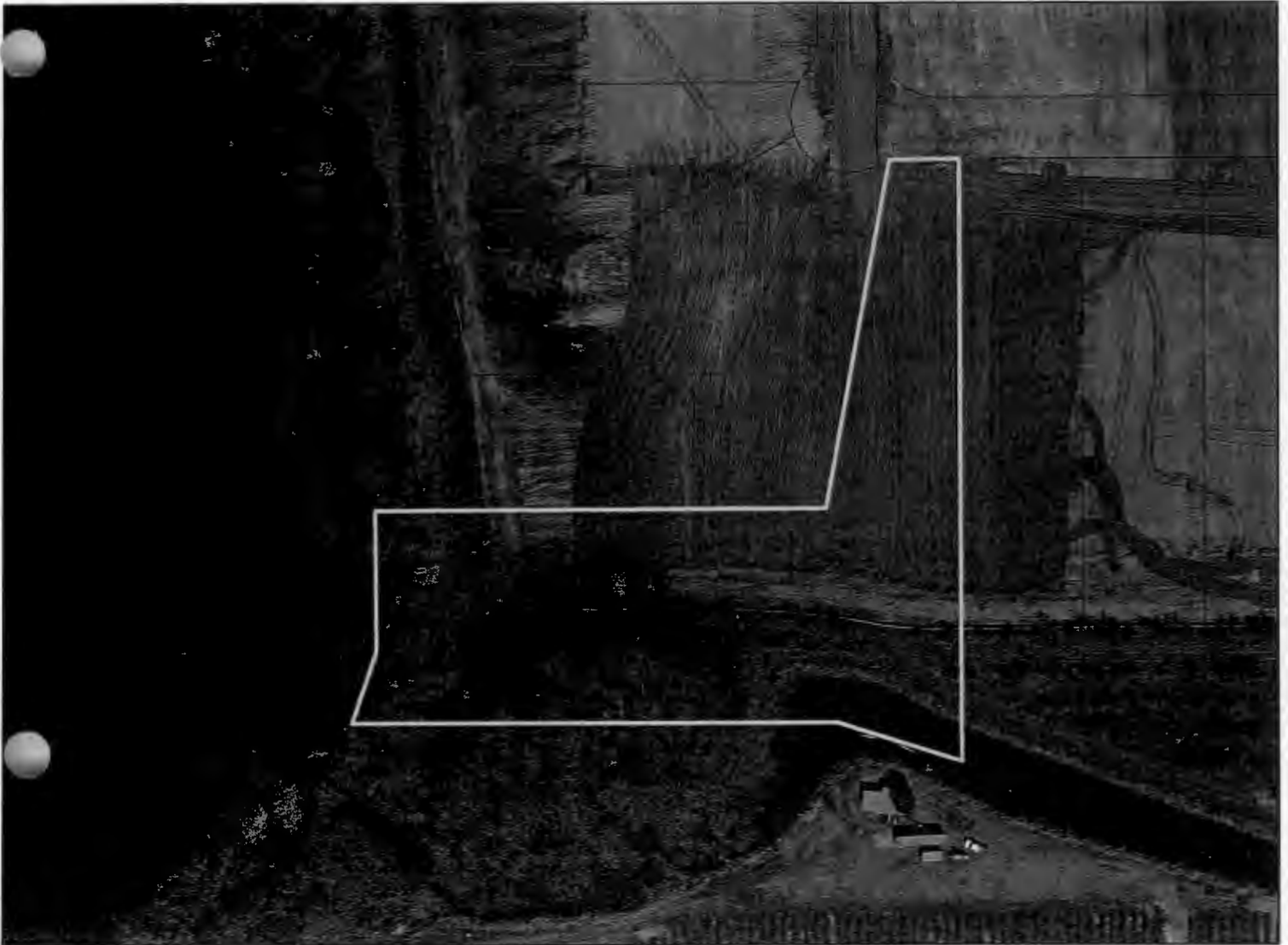


**ACTION REQUESTED:** Acceptance of the findings and recommendation of the Environmental Protection Division staff and approval of Conservation Area Impact Permit CAI-20-04-027 for the Pulte Home Company, LLC, subject to the conditions listed in the staff report. District 5

JW/DDJ: mg

Attachments

# Conservation Area Impact Permit Request



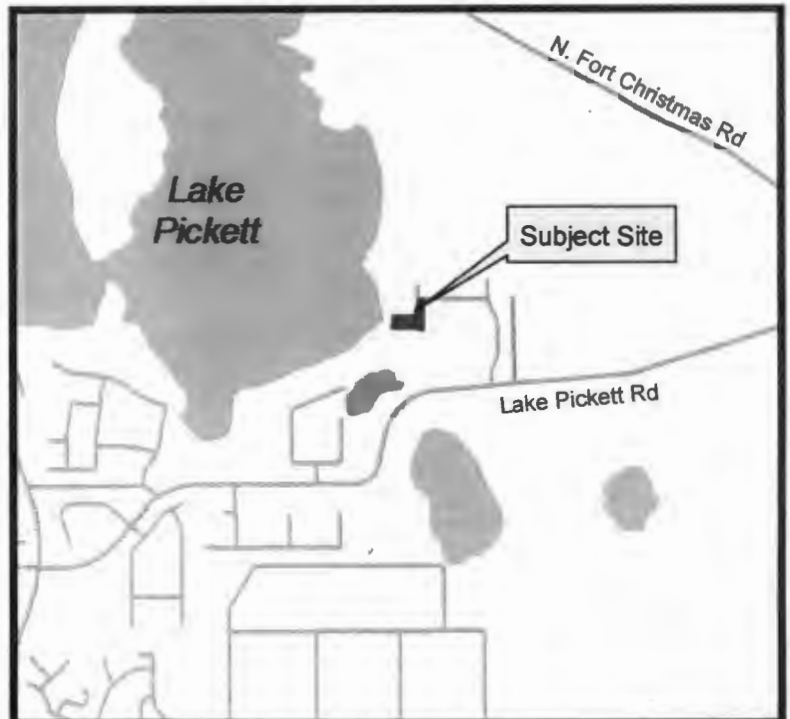
**Conservation Area Impact  
Permit Request  
CAI-20-04-027  
District #5**

**Applicant:** Pulte Home Company, LLC

**Parcel ID No.:** 03-22-32-7898-18-001

**Project Site**

**Property Location**

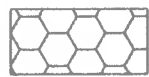




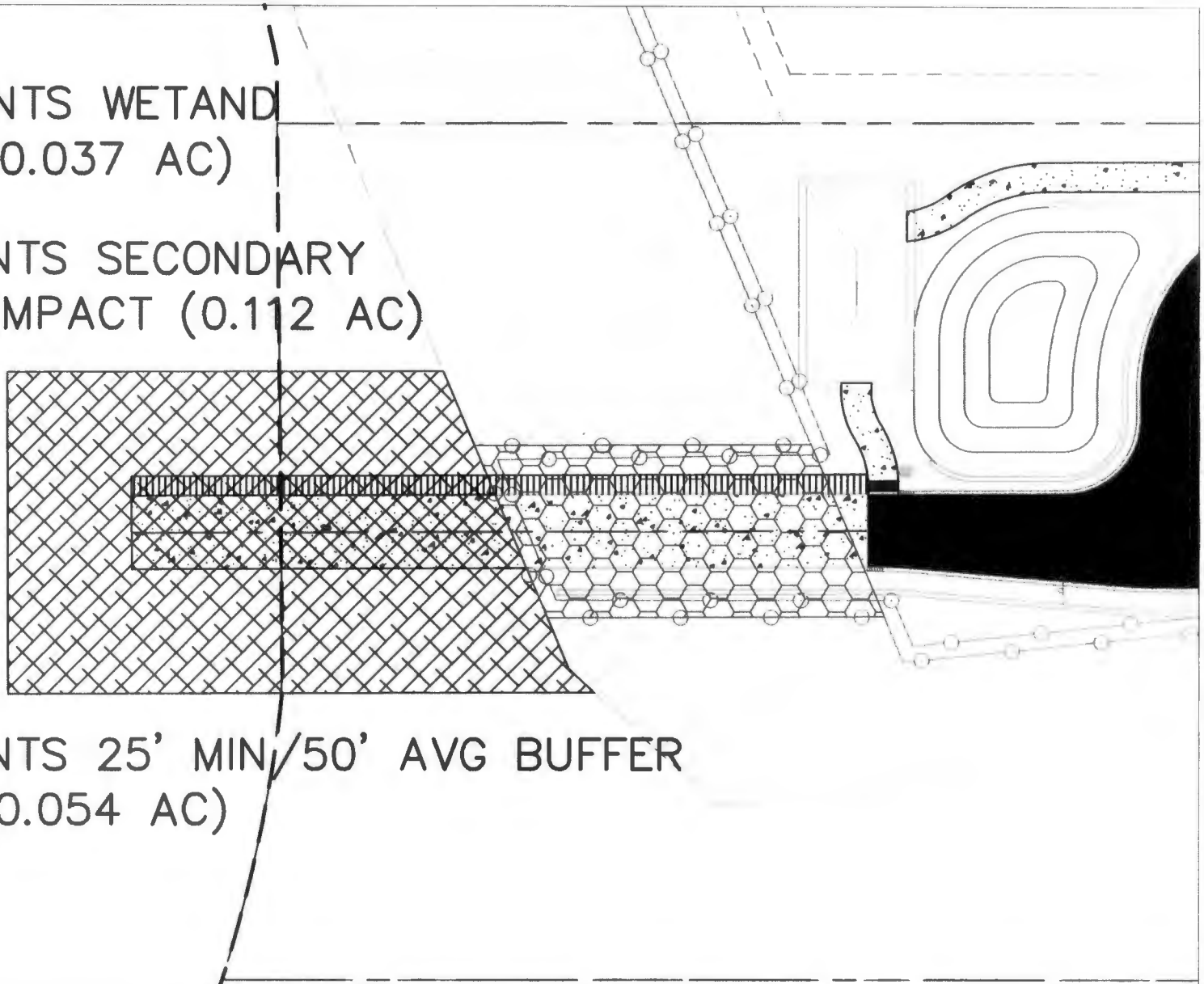
REPRESENTS WETLAND  
IMPACT (0.037 AC)



REPRESENTS SECONDARY  
WETLAND IMPACT (0.112 AC)



REPRESENTS 25' MIN/50' AVG BUFFER  
IMPACT (0.054 AC)



**Bio-Tech Consulting Inc.**  
Environmental and Permitting Services

2002 East Robinson Street Orlando, FL 32803 office:(407) 894-5969 fax:(407) 894-5970  
email: info@bio-techconsulting.com

Sunset Preserve Phase I - Boat Ramp

Orange County

Exhibit I

Wetland Impact Map

Drawn By: SEB

Date: 08/12/2020

Scale: 1" = 30'

DWG#: 2

Revised:



**Sunset Preserve Boat Ramp Relocation Steps, Timeline and Expenses**

Received by EPD from Pulte Home Company, LLC on January 20, 2021

Agency	Item Needed	Time to Complete	Potential Issues	If submitted immediately Est Completion Date	Permit Fees Not Included Est. Addt Cost (Consultant Fees)
USACE/FDEP	Wetland Impact Permit Revision (formerly USACE permit)	8 - 12 months	No guarantee of approval, run risk of not having alternate location approved by Orange County and then cannot construct a ramp due to not getting permit. Federal permitting/regulatory authority has changed from USACE to FDEP; which provides further complication as this transfer has just occurred.	1/24/22	\$6,000
SJRWMD	Conservation Easement Release	6 - 8 months	Must be approved by ED. This is not guaranteed as there is no justification to relocate a permitted boat ramp location and existing Conservation Easement.	9/24/21	
SJRWMD	ERP Revision	6 - 8 months	Cannot be approved until Conservation Easement release approved by ED	9/24/2021	\$20,000
Orange County/SJRWMD	Amend CE Easement	6 months	OC REM/Atty; Surveyor scheduling. Will require SJR/USACE/FDEP approvals prior to submittal to EPD.	Dependent upon SJR/USACE/FDEP approvals. Add 6 months. (July-2022)	\$5,000
Orange County	PSP Revision	3 months + BCC Approval	Cannot submit until we know USACE/SJRWMD will support revised location. Otherwise run risk of having boat ramp approved by Orange County in location we cannot get approved and having to start over again.	5/1/22	\$10,000
Orange County	Final Plat with BR Tract Designation - Final Phase (Phase 3) only possible location	6 months from PSP approval, however ultimately based on pace of development as it is the last phase of Sunset Preserve	Phase 4 lakefront lots are sold, cannot relocate there. Phase 5A plat is being submitted early February. There is not time receive approval from other agencies and revise the PSP to designate a boat ramp in Phase 5 prior to starting construction and submitting plat in February. Thus this is assuming the revised location would be in phase 3.	7/1/23	Negligible
Orange County	Boat Ramp Permit	6 months from submittal to BCC approval	Cannot be approved until BR tract is designated on the plat. Will require SJR/USACE/FDEP approvals prior to submittal to EPD.	Dependent on Final Plat approval for Phase 3. Add 6 months (Jan 2024)	\$50,000
Orange County	CAI Permit	Concurrent with Boat Ramp Permit	Approved by BCC along with BR Application. BCC scheduling. Will require SJR/USACE/FDEP approvals prior to submittal to EPD.	Dependent on Final Plat approval for Phase 3. Add 6 months (Jan 2024)	\$12,500

**Boat Ramp Alternate Location Comparison**

Location	Issues	Environmental Comparison
Existing "Evans Investments LLC" Ramp	All Phase 4 Lakefront lots have already been sold to buyers. Cannot relocate buyers to new lot and keep them close to their current estimated closing date. Existing ramp (small concrete) is located within property retained by the sellers. Pulte cannot submit for a ramp on this tract as we do not own.	Existing, overgrown launch's location is <u>directly</u> adjacent to the forested wetland which SOC and Commissioner Bonilla were concerned about and appears to have similar or more direct wetland impacts. Additionally, this location is contiguous to the "flow-way" which SOC and Commissioner Bonilla were concerned about that wraps around the southern edge of the forested wetland.
Existing "Wheeler" Ramp		N/A, cannot work past the issue of Pulte not owning the property.
Existing "Lake Picket Properties" Ramp	Phase/Timing - 3 year delay outlined above.	Existing, overgrown launch is directly adjacent to an even larger wetland area than that of the current location. Evaluation of acreage of direct and indirect impacts to be completed over the next 2 weeks, but looks to be equal to if not greater than that of current location.